

Market and Regulatory Reforms in the Turkish Case of Neoliberalism: Maladies of a Temporal Disjunction

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Introduction: Setting the main problem about regulatory reform in Turkey

For two decades since 1980, Turkish government undertook market reforms without comprehensive regulatory reform. It is only in the aftermath of crisis, in 1999 that drastic regulatory reforms began to be implemented. Their absence was, by then, considered to be the source behind major economic problems (İlkorur, 2006). Independent regulatory agencies emerged as key institutions of the reform process to establish a sound and competitive framework and embody the principles of good governance such as political insulation, transparency, accountability and participation.¹ Yet, the very process of implementation generated many tensions, conflicts over and amendments in the initial policies for reform. Those tensions reflect, according to a dominant discourse on reforms, a deviation from economic rationality and an unfolding of the reluctance of politicians to delegate power in order to maintain their ability to allocate rents by populist measures. Critics do also suggest that this is related to the patrimonial state tradition impeding liberalization² (Mahçupyan, 2007; Cemal, 2008; Özdalga, 2008). Such a dichotomy put between "negative politics and positive economics" (Grindle, 1991) creates a paradox since the very politicians who are likely to resist market reforms which could undermine their support base are at the same time expected to implement them (See Bates and Krueger, 1993).

Yet, the problems which are experienced by developing countries' attempt at both market and regulatory reform are much more complex than the perspective of negative politics presents it. This latter does not only underestimate the crucial role played by politicians in undertaking and achieving many liberal reforms, but also reads the whole history of neoliberalism as the unfolding of a single logic based on the rational calculations of individual politicians. In this paper I do rather argue that the specific historical trajectory of neoliberalism devised by the governments of the 1980s and 1990s created important effects on current regulatory reform. Put differently, the existing structure which was the (intended and unintended) outcome of neoliberal reformers' strategies during two decades and in which new institutions and principles of regulatory state and good governance are inserted today is the *historical dynamic* behind the contradictions of regulatory reform. By 2000s the hegemony of neoliberal solution was well-established and there was no attempt to go back to the traditional structures. What was more controversial and less clear was the form the reforms would take as a result of the historically specific power constellations between private and public actors.

To decipher those power relations sedimented during the 1980s and 1990s, which, I argue, may help to decode the meaning and contradictions of regulatory reform, I offer to start by looking at the first phase of market reforms implemented by the Motherland Party governments between 1983 and 1991. I investigate the specific relationship between political strategies vis-à-vis institutional structures and analyze the logic of ad-hoc strategies as opposed to a comprehensive regulatory framework. In the second part I examine the coalition governments which succeeded Motherland Party and show how the specific institutional structures created by the previous government were used to benefit new political purposes from 1991 to 1999. I underline the contradictions created by the achievement of those political purposes in fully liberalized markets. This section is followed by an analysis of the reasons behind and implications of the reforms to establish the 'regulatory state' and alter the existing governance structures since 1999. I try to show the links between the 1980s and the problems of the current regulatory reform process. Finally, by deriving insights from the Turkish case about the relationship between regulation and politics in general, I will try to show why regulatory reform has to be always a conflict-ridden and contested terrain.

¹ Former World Bank Turkey Director Ajay Chibber argued that the period from 2000 to 2002 will be written by economic historians as a critical period for the establishment of a competitive structure and regulatory agencies in Turkey (Chibber, 2001).

² Theoretical roots of this approach to the state can be found in Heper (1991).

The paper is theoretically underpinned by questions about how policy-makers problematize things, how they formulate solutions to existing problems, how their chosen strategies generate unanticipated outcomes. The paper shaped by those questions can then be read as an attempt to bring 'agency' and 'history' back in to the debates on 'regulatory state' whose experience in the developing countries is *more than the application of formal institutional changes*.

Centralisation of power: Political rationality vs. technocratic rationality?

The economic decisions taken by the government on 24th January 1980 inaugurated the liberal reforms in Turkey. Both military government which came to power after the military intervention of 12th September 1980 and Turgut Özal government which took over in the victory of his Motherland Party (MP) at the democratic elections of 1983 adopted a series of strategies to curb down the institutional rigidities which supported the previous period characterized by a centrally coordinated import substitution industrialization. The legal framework of 1982 Constitution increased the power of executive organs including the Prime Ministry, Council of Ministers and President. Moreover similar to many developing countries' neoliberal reformers, first the military government, then Özal government concentrated power in the hands of a few technocratic councils.³ Sometimes they gave new functions to existing institutions, in some other instances they created new agencies to which they delegated the power they took from other ministries. The former is illustrated by two consultation and coordination agencies, the Coordination Board and Money and Credit Board which were transformed, in 1980, into two agencies authorized to make key decisions in economic management including trade quotas, import and export regimes. The latter strategy could be observed in the establishment of the Higher Coordination Board of Economic Affairs (HCBEA) in 1981, to make decisions on issues related to domestic and foreign policy when those issues concerned more than one ministry. In 1983 this board assumed the additional role of making decisions related to state economic enterprises (SEEs). Another very powerful agency was the Undersecretariat of Treasury and Foreign Trade making key decisions on monetary and financial policy. This agency turned into an organization above ministries and the Council of Ministers and became the first point of contact for IMF and the World Bank officers (Güler, 1996).

Despite extraordinary powers they assumed, those agencies were not omnipotent in all areas of economic and social policy-making. Many decisions needed parliamentary approval and the governments. In order to avoid this, the governments referred to an already existing tool in public administration by making its exceptional use routinized: Decrees having force of law (DFL)⁴, also used extensively by Latin American governments in the same period (see Teichman, 1997; 2002). Moreover, whenever a more specialized reform area was needed to be dealt with; single-purpose agencies were established. The administrative structure of Turkey in the early 1980s, therefore, would reflect what Weyland (1996) does observe for many of the Latin American countries of the same period: Centralized decision-making regarding macro-level policies including trade, fiscal and monetary policies mostly made by top agencies, presidency or prime ministry (depending on the political system of each country). What is critical in that context is that Özal government did not try to eliminate the already existing institutional structures. Rather he did curb down the power of some units and created new agencies (undersecretariats, economic coordination boards) within the existing structure by creating what is might be called a 'dual bureaucracy'. In this dual structure, whereas old institutions continued their more traditional bureaucratic practices and structures, new agencies became areas to try more market-oriented principles of private sector with different payment and personnel models (Sönmez, 2004).

³ See Teichman (1997; 2002), Weyland (1996), Williams (2002) for the cases of Argentina, Mexico and Chile.

⁴ Decrees having the force of law were originally introduced as an exceptional limited authority delegated by the legislative body by a time-limited authorization law to the executive on urgent and primary issues. While only 17 decrees were used from 1972 to 1978, 305 DFLs, 261 of which were related to decisions on administrative structure, were used from 1982 to 1990.

Concentration of power and the rise of a technocratic discourse led certain scholars to make the generalized claim that placing excessive power into the hands of few technocratic reformers would undermine the power of politicians tempted to continue their distributive strategies (Krueger and Bates, 1993). Whenever a policy did not work after initial implementation, the blame was put on the temporarily suspended but never ceasing tendency of politicians to go back to their redistributive strategies. From that perspective political and technocratic rationality appear to be mutually exclusive. Yet, this account does not address the question of why the appointive bureaucracies were appointed in the first place as Ross-Schneider (1997) rightly puts. In the case of Turkey, technocrats appointed to the chair of the top agencies, as well as of the state-owned banks and state economic enterprises by Özal government were chosen by the Prime Minister himself for the political purpose of achieving liberal reforms rapidly. Some of those individuals were popularly known as "Özal's princes". Moreover, most of the time Özal did his best to tie the key agencies to Prime Ministry to maintain his control over them and transformed the Prime Ministry into a very large powerful ministry rather than coordinator ministry. This not only made the dividing lines between technocratic and political highly blurred from the very outset but also contributed to the personalization of power in a highly politicized manner (Güran, 1989). Therefore, technocrats were acting within the boundaries of a strategic framework drawn by the politicians. In this framework, technocratic discourse and rationality of market fundamentalism did facilitate the political objective of achieving change during the 1980s. Perhaps, it would be more correct to argue that the domain of politics (of economic management) was shifted, in an astute way, by politicians.⁵

Changes in the bureaucratic structure did alter the relations between state and business. Centralization of power created incentives for businessmen to establish close links with a few technocrats and politicians rather than enabling a form of concertation or formal consultation mechanism between state and business. Yet, the literature on state and business now offers enough robust evidence to suggest that personalized links do not necessarily impede successful economic strategy (see Maxfield and Ross-Schneider, 1997). On the contrary, by cementing the relations between politicians, bureaucrats and businessmen, they may generate efficient outcomes. In the case of Turkey, those links produced a dual outcome: On the one hand they offered a number of business groups new opportunities within the new economic strategy of liberalization and privatization and made them, in the language of the structural adjustment, 'a winners' coalition' which would ardently support neoliberal reforms (see Yalman, 1997). On the other hand, personalization of power facilitated corruption and rent-seeking, which, although functional in the earlier phase of the reforms by inducing rapid growth and accumulation by businessmen eager to maximize their benefits (Khan, 2002), would start posing obstacles to capital accumulation in the long run, especially after the transition to full liberalization of capital account in 1989.

Ruling by ad-hoc strategies: Exception or rule?

The developments in the institutional structure in the initial phase of market reforms do not imply that the institutional framework of neoliberalism is pre-given. Nor do they mean that the reform process is far from being contradictory and policy-makers easily achieve change thanks to technocratic instruments.⁶ Moreover

⁵ The relationship between technocrats, politicians at the government and parliamentarians deserves special attention and analysis. Özal did not face opposition initially because strong political leaders of the pre-1980 period were legally forbidden from doing politics. The rise of opposition would alter the coordinates of political scene and Özal would need to legitimise his contested policies. In fact, evidence from Latin American cases suggests that technocrats at the head of top agencies learnt, over time, to strategically assess power relations and use tactics and lobbying with the parliamentarians or other bureaucrats to make them *stakeholders* rather than opponents (Williams, 2002).

⁶ Within the scope of the paper I am dealing with specific reforms on the basis of my own argument. But for more studies which shed light upon different aspects of Özal's economic and social policies and their implications, selected readings are Türel (1987), Tünay (1993), Sönmez (1992), Boratav (1995), Yalman (1997), Öniş (1998). Changing

political strategies do produce unintended consequences, by making certain actors more powerful than others in a given structure of governance. In order to grasp the complexity of this process, I look at the political strategies and tactics of Özal government vis-à-vis existing institutions rather than at what was achieved by Özal retrospectively from today, and try to find out what kind of implications (intended or unintended) those strategies created. I am referring to the term "ad-hoc strategy" to reveal a set of regularities in the shaping of the reforms and define it as the one which is inserted additionally to an existing structure, which may or may not fit into it, but becomes the component of this structure. Ad-hoc differs from a comprehensive reform programme geared to replace radically the existing system and has the following dimensions I identified for the analysis of Özal's reforms in particular and of the relationship between politics and regulation in general, which will be discussed later in the paper.

First of all, the recognition of ad-hoc policy-making as a rational strategy corrects the problem of ascribing to rulers an inherent capacity to create an all-encompassing, comprehensive plan for reform. Not only do rulers lack such capacity, but also they rarely have all the necessary information regarding different sectors in the economy and different groups in society. Learning by doing, trial and error are regularities rather than exceptions. Even if one comprehensive reform is implemented, there is no guarantee for the achievement of anticipated objective, so ad-hoc strategies open up a room for manoeuvre during the implementation of reforms and enhance flexibility to amend rules of the game when they notice or face new problems. Such an understanding is more sensitive to the temporal changes which can not be grasped easily by the dichotomous analysis of institutional stability and change.

Second, the very nature of politics requires ad-hoc strategies. Against the negative meaning given to politics in the literature on market reforms, I argue that politics, in the context of market reforms, should not be reduced to self-seeking, interest-maximization behaviour geared to stay in power as opposed to economic rationality. Rather, the need to accommodate different conflicting interests concomitantly in a given context makes the choices and decisions of politicians highly contradictory (See Grindle, 1991). Even though a specific policy is enacted by law, legislation or decree, there can always be some additional measure which follows the implementation of this policy, to alleviate the tensions created by or sometimes to decrease the impact of the given policy. Policy makers can benefit from the spaces left open by law or from the conflicts between different authorities in a given policy domain in order to justify their ad-hoc changes. Or they can use the existing policies selectively rather than making additional changes. Also some policy changes may be reversed by the subsequent governments with further ad-hoc changes when their political preferences change (See Cortell and Peterson, 2001).

Ad-hoc strategies can facilitate change as much as they reverse or re-shape change, in the short run, by allowing policy-makers to implement certain policies in a rapid way, without the need for comprehensive reform programme; in the long-run, by *corroding* and *de-legitimizing* the existing institutional structures in which they were inserted in the first place. In the case of Özal government, ad-hoc changes were useful to implement certain policies by avoiding opposition and by making certain policy options more possible than imagined before. Put differently, some ad-hoc changes to the existing system challenged the existing system since individuals started considering that other options are also possible. It takes time for certain options to be legitimate and ad-hoc changes made incremental change possible by de-legitimizing certain existing practices. After two decades of reform, when people would talk about institutional inertia, they would in fact refer to dysfunctional institutions which were 'made' dysfunctional. The next section looks at how those ad-hoc strategies are used to implement market reforms in the absence of regulatory reform.

Market reforms without comprehensive regulatory reform

bureaucratic structures are discussed separately from this political economy literature. See Karaer (1993), Aksoy (1995), Güran (1989), Sezen (2003).

The specific implementation of market reforms with ad-hoc strategies rather than comprehensive regulatory reform can be observed firstly in liberalization of trade. The Özal government did not choose a centrally coordinated export-oriented strategy based on selective industrial policy instruments as in the case of developmental states. He channelled investments from industry to infrastructure and did promote the development of the private sector without inducing specialization on higher value added products (see Eralp, 1993; Şenses and Taymaz, 2003). Yet, in the aftermath of trade liberalization, an export boom was achieved, due to the selling of the already existing capacity generated by the state-sponsored import substitution industrialisation of the previous period (Owen and Pamuk, 1998).

What made attractive the business of foreign trade was the use of concentrated and personalised power in creating rent-seeking opportunities for a group of businessmen. Whereas market reforms were expected to eliminate rent-seeking, the liberalisation of trade brought about new forms of rent-seeking⁷ such as export subsidies and credits. After 1980, the Directorate of Incentives and Implementation which had been under the Ministry of Industry and Technology, was brought under the Prime Ministry and few bureaucrats became in charge with the distribution of subsidies and incentives in the economy (Krueger and Turan, 1993). The background of the foreign trade companies established in that period was two-fold: They were either subsidiaries of the large business companies enriched during the import-substitution period or the ones set up by the newly emerging business groups with close personal links to politicians (Sönmez, 1992; Eralp, 1993). Those groups had access to the Central Bank rediscount facilities, to foreign exchange allocated by an extra-budgetary fund which is the Export Promotion Fund to import raw materials, investment good and spare parts (Öniş, 1998). Export subsidies and tax rebate opportunities offered were so profitable that during the 1980s a number of businessmen could enrich rapidly and would be the ardent supporters of Ozal's reforms. In the absence of comprehensive industrial strategy, state-created rents did not help a qualitative shift in industrial upgrading as in the case of developmental states where personal enrichment by companies is tied to developmental goals and can be eliminated if performance criteria are not met.

In the financial sector, lack of regulation in the context of liberalisation generated its disastrous consequences very rapidly in the banker crisis. After the liberalization of prices in markets by the 24th January decisions and then liberalisation of credit interests, interest rates arose enormously. Individuals found more attractive to deposit their money to private bankers who offered very high interest rates, which deteriorated the balance of financial markets. When bankers left the market after some time and did not pay their depositors, this led to a huge crisis. The Capital Market Board (CMB) which was established with the Capital Market Law in 1981 was the first regulatory agency of the period. It was responsible for constituting open and credible capital market by providing and efficient control (Sencer, 1986). However, the CMB was politically related to the Ministry of Finance and could only check organisations within the capital market by the approval of the Minister of Finance, which undermined its independent decision-making.⁸

Politicisation could be observed in the immature stock market established in 1985 where individuals with close ties to the government could get access to secret information (Buğra, 1994). Foreign liberalisation of capital accounts, on the other hand would be achieved by a decree which removed all capital controls in 1989, a date where the financial markets were still not mature and would make the economy vulnerable to the volatile movements of international capital flows and would limit the capacity of the state to use independently its monetary instruments (see Öniş and Aysan, 2000; Yeldan and Cizre-Sakallıoğlu, 2002)

⁷ See Manzetti and Blake (1996) who demonstrated the relationship between market reforms and new forms of corruption and rent-seeking in the Latin American case.

⁸ It is only after the legal amendments in 1992 and 1999 that this agency would be regarded as a real independent regulatory agency (Sönmez, 2004).

The establishment of private banks was very profitable, especially for businessmen who wanted to create their own financial sources or who wanted to benefit, once again, from the opportunities offered by the state. The government started using debt instruments heavily such as internal borrowing since 1985⁹ via banks by offering them high interest rates, which became a positive incentive for the banking sector to undertake highly risky loans. The Banking Law of 1985 allowed some degree of regulatory oversight to control the banking sector in this highly risky environment. The Law allowed the State Minister of Economic Affairs to intervene in case a bank is identified as having problems of performance or bad loans and gave Treasury the right to facilitate the improvement of the bank. Alper and Öniş (2002) give a lucid explanation of why this regulatory instrument remained ineffective. First of all, it was not easy for the bureaucrats to confront private banks exerting political influence. Moreover, rehabilitation of banks would require injecting liquidity via public funds and such a concern would necessarily conflict with the objective of budget equilibrium. Finally and most importantly, there was a symbiotic relationship between banks and the government due to the excessive holdings of government securities by the under-capitalized banks (Alper and Öniş, 2002). This dependence of the state on banks not only for revenues but for the creation of a special form of the valorization of capital (and thus interest groups as financial capital) would make regulation not only costly, but dangerous for the overall reform process which geared at change in the context of a developing country.

Public banks were also able to avoid regulatory controls, because their ability to assist the government in creating necessary sources of funding to accommodate different interests during the implementation of drastic changes in the economy (such as the decline of real wages, the removal of protection quotas, liberalization of trade which makes the economy open to the fluctuations of world prices) was politically important if detrimental in terms of increasing their deficits, which are defined as 'duty losses'. Such losses contributed to further difficulties in public sector borrowing requirement. So, rather than a comprehensive banking reform which would discipline investors from the very beginning and perhaps discourage them from undertaking investment in the financial sector, the Özal government preferred using piecemeal measures when problems emerged in the sector. The ministries and the Central Bank made interventions to cope with the day-to-day problems in the operation of the banking sector¹⁰, but this followed the logic of ad-hoc strategy rather than a major banking reform until 1999.

Another area of reform which lacked a proper law and comprehensive programme was privatizations. In 1986, the Council of Ministers and High Council of Planning were given the right to make privatization decisions whereas the Housing Development Administration was responsible for dealing with the technical implementation. Yet, most privatizations could not be achieved efficiently in the 1980s. Faced with the blocking of decree-based privatization decisions by the legal institutions such as the Constitutional Court and the Council of State, Özal used other ad-hoc techniques¹¹ to open the state assets to private sector. The Built-Operate and Transfer (BOT) method which provided the Treasury guarantees was a good incentive for the private investors to enter certain sectors. The revenue partnership bond was another means by which the public was invited to obtain benefits from revenues by state-run enterprises. Such attempts became useful in creating step by step, a familiarity with, consent and legitimacy to private ownership. The ad-hoc logic could also be observed in the contracting out of selected services such as cleaning and security in education and health institutions as well as local governments. Contracting out via public procurement was not subject to regulatory oversight. There was no responsible central agency responsible for the application of the State Procurement Law. All the authority was being used by the administrative agencies arranging procurements to buy goods and services within the market. In the absence of administrative control agency, there emerged many irregularities, illegalities and corruptions in the procurement process which remain either unreported or uninvestigated, encouraging personalized relations between contractors and the Özal government (See Baran, 2000).

⁹ Köse and Yeldan (1997) show how the instrument of internal borrowing functioned as a mechanism of wealth transfer to capital groups in the 1980s and 1990s.

¹⁰ <http://ekonomitarihi.blogspot.com/2006/03/1991.html> does give detailed accounts of those day-to-day operations.

¹¹ For the enumeration of all methods applied for privatization in Turkey, see www.oib.gov.tr.

One of the main aims of the neoliberal strategy was to decrease state deficits and ensure fiscal discipline. Despite budget cuts in certain areas (such as agricultural subsidies, wages of civil servants, industrial investment) in other areas the government increased state expenditure. Offering export subsidies and strengthening infrastructures geared to the development of the private sector and entrepreneurs on the one hand, creating material benefits for other social groups (in terms of housing funds for instance) to secure their consent for the neoliberal project required more financial sources. Özal had recourse to, once again, ad-hoc techniques to finance state expenditure: Extra-budgetary funds were important instruments to create financial sources outside of the central budget and thus parliamentary approval. Not submitted to legal oversight, those funds were controlled by quasi-political and bureaucratic councils responsible for allocating them to different social groups (Türel, 1987). In that way, they allowed the government to pursue the objective of liberalization by still being able to distribute benefits and rents to different groups. Therefore, despite all rhetoric against the state, in the hands of Özal, state became an *encroaching machine* which created more fiscal deficit while building more roads, funded unproductive investments while creating 'new rich'. Put differently, the state was the medium for the political project to become *hegemonic*,¹² at the expense of increasing public sector borrowing requirement.

Özal's strategies gave neoliberal reforms their specific colour. In contrast to some of his Latin American counterparts, he applied a gradualist reform package for neoliberalism which allowed him to neutralize, temporarily, conflicting interests. His success lied in that, by risking direct confrontation with traditional bureaucracy, manipulating tools available to him, applying selectively weak regulatory instruments, and using ad-hoc strategies, he made possible certain policies which were considered to inapplicable in the context of the 1960s and 1970s. However his policies created its own contradictions: In the administrative realm, by making public authority dependent on personalized power, he also did open it to be used and abused not only by his own government but by subsequent governments with different political purposes. In the economic sphere, his fiscal policy of high public borrowing coupled with unregulated liberalization created high levels of inflation which created major problems for purchasing power, which he underestimated as a price to pay for rapid economic growth (Öniş, 2004). The declining living standards and wages sharpened the polarization between losers and winners, leading to major demonstrations by working classes, culminating in the year of 1989. In the agriculture, the limiting of subsidies coupled with the fluctuating world prices created negative consequences for rural classes. Terms of trade deteriorated at the expense of agriculture and small peasantry had to intensify production and exploitation of domestic labour to survive (see Boratav, 1995).

Against increasing discontent, Özal's government attempted to implement certain immediate measures such as the rise of private and public sector wages, as part of what is called by certain scholars as "neoliberal populism" of developing countries (Weyland, 1996; Öniş, 2004). Yet, the growing discontent resulted in a withdrawal of support from Özal's Motherland Party and as a result of 1991 elections, the coalition of the True Path Party and the Social Democratic People's Party (SDPP) came to power. The former was the heir of a traditional right wing party with a strong rural support base, the latter of the party which founded the Turkish Republic. Their common claim to be critical of the liberal reforms was appealing for the loser groups of the 1980s. This coalition would be replaced by another one in 1995¹³ when the True Path Party would ally with the Welfare Party, an Islamist party which took the support of marginalized urban poor and working classes as well as the small and medium scale capital groups alienated by the economic policies benefiting mainly large business groups.¹⁴ Yet, the challenges faced by both coalition governments would

¹² See Tünay (1993) for a comparative analysis of Thatcher and Ozal in terms of their attempts at building neoliberal hegemony through a Gramscian framework.

¹³ For the sake of simplicity, I am excluding a detailed analysis of political instability periods and a full list of different governments. See www.tbmm.gov.tr.

¹⁴ The nature of political parties requires a more detailed discussion which can not be made within the scope of this paper. See Heper and Landau (eds.) (1991), Eralp, Tünay and Yeşilada (eds.) (1993), Cizre-Sakallıoğlu (1997).

remain the same: How to achieve the political objective to cope with the need to accommodate different class interests in the economic context of fully liberalized markets vulnerable to financial crisis and limiting the government's ability to use its instruments of economic management? The institutional response to such a challenge would, once again, exclude regulatory reform.

Ruling in financial crisis without regulatory reform: 1991-1999

The coalition government's power was based on the assumption that it could meet the demands of the losers of the first wave of market reforms. Therefore, their capacity to accommodate class interests was of utmost importance to their success. So they used the possibilities of personalized and centralized power instruments created by the Özal government in order to achieve their political preferences.¹⁵ Taking the legacy of Özal, the governments continued using instruments such as politicized tenders in procurements or subsidy allocation in satisfying the needs of their own clientele. They manipulated subsidies, aids, and credits, and used councils for their own preferences. In a way to increase the fiscal deficit even further, farmers' debts were cancelled; workers' wages in both private and public sectors were increased. In financing those expenditures, both extra-budgetary funds and government internal borrowing instruments were employed in continuity with the previous period. Those policies were justified, once again, by a technocratic discourse adopted by the Prime Minister, Tansu Çiller, reflected in her famous statement to demonstrate the efficiency of her government cabinet: "We first implement decisions, then announce them" (Saybaşı, 1995).

Liberal reforms were not reversed and no regulatory reform was undertaken. Rather new ad-hoc strategies within the existing institutional structure were made. For instance, against the obstacles put by the Council of State and the Constitutional Court to the attempts at privatizations, legal amendments were made to limit the role and duties of those institutions.¹⁶ The Privatization Law of 1994 was important but it was not sufficient to create the necessary regulatory framework to avoid corruption and to contribute to a competitive structure. The Law established the High Council of Privatization (responsible for approving privatization decisions) and Privatization Administration (responsible for monitoring the technical process), but business groups exploited rent-seeking opportunities by using their clientelistic links with the politicized members of the High Council of Privatization.

The day-to-day operation of the markets was managed, when necessary, by agencies such as the Central Bank and Ministry of Finance but debates on broader and structural reforms to manage the economy did never translate into policy outcomes until the crisis of 1994. Rather, in the context of the 1990s, the attractive interest rates offered by the government bonds increased further short term capital flows (due to the difference between foreign and domestic interest rates) and the private banks were able to borrow with highly risky loans to lend to the government as I already explained in the previous section. The rise of short term capital flows overvalued the currency but this deteriorated the balance of payments by making imports cheaper at the detriment of exports. High interest rates, overvalued currency and borrowing based on short term capital flows, which were proven to be unsustainable in other developing countries, made the Turkish economy more vulnerable and would create a crisis in 1994. Similar crises would follow, the most important one being the 2001 one, and demonstrating the fragility of developing countries' markets and Central Banks with respect to international credit agencies and volatility of short-term capital flows (Yeldan and Cizre-Sakallıoğlu, 2002).

¹⁵ Cortell and Peterson (2001) show that in the British case the mechanisms created by Thatcher government in bureaucracy were used for different purposes by Major government, thus indicating to the unintended consequences of institutional reform.

¹⁶ It is important to note that the judiciary is not as politicized as it is in many Latin American countries where reforms were undertaken with less legal resistance.

The outcome of an agreement with the IMF to overcome the crisis situation, the decisions of 5th of April in 1994, reflect a formal commitment to implement policies of structural reforms and change the structure of governance which is considered to be the source of problems. In that sense, the programme targeted “a transition from a state structure which allocates subsidies to a state structure which deals with social problems and makes the market function with its all rules”.¹⁷ Yet the consequence has been the implementation of short term stabilization programme and devaluation whereas structural reforms were postponed once again. Whereas for Özal until the 1991, ad-hoc was a strategy to achieve change against any possible opposition, for the coalition governments of the 1990s, it became a way to manipulate and delay the drastic reforms imposed by the WB and IMF. Within the context of reforms, subsidized prices were limited but no structural agricultural reform was achieved; private social security schemes were encouraged but no drastic social security reform was undertaken; inefficient facilities of state economic enterprises were closed down but no comprehensive reform of their sale was realized.

The contradictions of neoliberal policies were faced by the governments of 1990s even more seriously because of their diminishing ability to use certain tools to alleviate tensions in liberalized markets and of their incapacity to offer any real alternative to the neoliberal solution. By 1999, a very important banking crisis erupted. The instability in Turkish politics gave birth, in 1999 elections, to a coalition government made up of three different political parties: Motherland Party (MP), Nationalist Action Party (NAP) and Democratic Left Party (DLP). It would be the task of the Justice and Development Party (JDP) to continue the reforms, when it came to power in 2002 elections, due to its ability to create a new hegemonic project since Özal, to which different social groups gave their consent in the aftermath of a political crisis.

Establishing ‘regulatory state’ in Turkey with IRAs: 1999-2008

The reasons behind the implementation of regulatory reforms since 1999 should be thought with reference to both exogenous and endogenous factors. The crisis in that year provided international financial institutions with leverage to impose their own regulatory agenda. By 1999, the priorities of the WB and IMF for developing countries had changed. In the 1980s economic growth, fiscal discipline and the destruction of state-led model of development were the main objectives promoted by those institutions and similar to national governments, they did lack a pre-given design for institutional framework of neoliberalism. Yet, in the 1990s, they endorsed the idea that the main problem of developing countries lied in governance (WB, 1992) and incrementally, the rise of new-institutionalist ideas which proposed to correct market failures, transaction costs and information asymmetries with institutional reform began to underpin their discourse and policy framework, culminating in the Post-Washington Consensus and Comprehensive Development Framework of 1999. Key components of this new integrative framework were poverty alleviation to deal with the social tensions created by the first generation of reforms, ensuring government ownership and thus legitimacy for reforms and institution-building to correct the failures of and support the markets (see Wolfensohn and Fischer, 2000; WB, 2002) all of which aimed at a better and stronger implementation of neoliberalism (Cammack, 2004). The task of achieving a new transparent, accountable governance structure in developing countries and Turkey would be given to independent regulatory agencies (IRAs).¹⁸

Yet, it would be insufficient to emphasize only the coercive dimension of change. By 1999, the populist policies funded by fiscal deficit internally related to internal borrowing began to become unsustainable for the policy-makers themselves: Major corruption scandals in energy and procurement had occurred so that

¹⁷ See http://ekodialog.com/Konular/1994_krizi.html, for a detailed analysis of the decisions.

¹⁸ Independent regulatory agencies are not new phenomena in Turkey. Capital Market Board (1981), The Higher Board of Radio and Television (1994) and Competition Agency (1994) were all established before 1999. But the proliferation of the IRAs which regulate different markets happened only after 1999: Banking Regulation and Supervision Agency (1999), Telecommunications Agency (2000), Energy Market Regulatory Agency (2000), Public Procurement Agency (2001) Sugar Agency (2001), Tobacco, Tobacco Products and Alcoholic Beverages Market Regulation Agency (2002).

rent-seeking was creating more obstacles than opportunities for capital accumulation. Recurring financial crises in liberalized markets undermined the legitimacy of governments to a such an extent that even from the perspective of interest maximizing politician, keeping political power meant or was *perceived to* seek for alternative solutions to at least *try* if not fully adopt, rather than reproducing the vicious cycle of neo-populist measures funded by volatile short term capital flows. Even the Central Bank representatives admitted that 1980s liberal policies were a ‘learning by doing’ process, and the lack of an institutional ground for free market economy in Turkey was the main obstacle to change (CBTR, 2002). Available options do not emerge out of nothing: In a symbolic universe grounded by the values of free market and where the World Bank (WB) became almost a domestic actor in everyday politics, the independent regulatory agencies seemed to policy-makers a tool to remedy the maladies of the structures they themselves sustained and reproduced over time. Moreover, ad-hoc strategies by the Ozal government were successful in corroding the existing institutional structures over time so that by 1999 there was no defence of the traditional structures as was the case in the 1980s. What was less certain and more open-ended was the degree, form and content of delegation by politicians to the IRAs.

The reforms which started in 1999 can be considered as an attempt to establish the ‘regulatory state’ and new governance structures in different sectors, the most important actors being the IRAs.¹⁹ Even though properties of ‘regulatory state’ are universalized through diffusion²⁰, the specific timing, nature, justification of and reasons behind regulatory reform is highly context-dependent. For instance, in the case of the UK the creation of IRAs was not the outcome of a debate on the necessity to complement the first generation of market reforms with regulatory reforms as the WB proposed for developing countries since there was no real temporal disjuncture between two reform processes. In the ideas of their theoreticians and defenders such as Stephen Littlechild, an IRAs would be a single-purpose agency whose function would last until self-regulation of markets becomes possible.²¹ In the context of Turkey, on the other hand, from the very outset, the IRAs assumed multiple functions: First of all, they were expected to correct market failures which occurred during the 1980s and 1990s and eliminate corruption and rent seeking opportunities. Second, IRAs were presented themselves as bodies of governance. Some of the IRAs, as opposed to the British case, had boards sit by the representatives of different stakeholders in civil society²² for the relevant sectors, together with selected bureaucrats, in a way to solve problems of accountability and participation which neoliberal reformers faced previously.²³ Third, as politically insulated agencies, IRAs were expected to depoliticize economic management (Burnham, 2000) by limiting the earlier populist policies by politicians in distributing rents and by shifting the blame for neoliberal policies to IRAs (Thatcher and Stone-Sweet, 2002). Finally, IRAs were expected to complete market reforms in Turkey since by the time of their establishment, privatization and liberalization of the markets were still not a complete issue as in the case of the UK. However, due to the tensions in the post-implementation of reforms, there arose *a gap between actual processes and the ideal functions* ascribed to the IRAs. An important reason behind this gap, I argue, resides in the specific historical trajectory of Turkish neoliberalism. My next task will be to show this

¹⁹ Independent regulatory agencies are not new phenomena. There were regulatory commissions in the late nineteenth century in the US, the first of which was the Interstate Commission. After that period in the UK in 1948, The Competition Commission was established and in 1957 in Germany Federal Cartel Office was set up. However that kind of practice was neither extended to other sectors, nor to other countries (Wilks and Bartle, 2002).

²⁰ See Majone (1994) for the main properties of “regulatory state” and Levi-Faur (2005) for the “diffusion” argument.

²¹ It is not a coincidence that when the IRAs were established in the 1980s in the UK, the main topics of debate were from the literature of the ‘economics of regulation’. Yet, few historical developments generate the outcome anticipated by their precursors. Liberalization would create its own conflicts and IRAs would assume new functions in social regulation and would become an important actor involved in conflicts and alliances with other institutions and political actors in the 1990s. Hence the rise of the literature on the ‘politics of regulation’ would be observed (See Young, 2001; Jordana and Levi-Faur, 2004).

²² Sugar Agency, and Tobbaco, Tobacco Products and Alcoholic Beverages Market Regulation Agency illustrate this case evidently.

²³ For a theoretical analysis of the rise of governance approaches and their effect on the IRAs with respect to the problems and tensions faced by the previous theoretical approaches and neoliberal reforms, see Sönmez (2004).

interconnection with regards to specific problem areas in which selected reform areas will be located and discussed.

Turkish regulatory reform as a process of conflict and bargaining

Controversies began at the very outset of the reform process. The coalition government, even after the appointment of Kemal Derviş to the minister of economy in 2001 with the proposal of the World Bank to ensure the rapidity of reforms, did not show an overall ideological commitment to the regulatory reform. The words of the Prime Minister Bülent Ecevit were quite illustrative in that sense: "I do not know whether we did right or wrong ... We established *institutions inside the state but they are more powerful than the state*. We can not make them listen to us" (Şimşek, 2001). Such a concern would bring about an attempt to control the governing boards of the IRAs in diverse ways. The case of the Banking Regulation and Supervision Agency (BRSA) is very symbolic in that sense. The BRSA was established in 1999 with the new Banking Law and was authorized to make all the rules and regulations in the banking sector, to protect the rights of savings owners, to avoid all the acts and actions that may jeopardize the stable functioning and to take necessary measures for the well-functioning of credit systems. As said in previous sections, the previous regulatory instruments were not used effectively due to the interdependency between the government and private banks. Established in a year of crisis to solve this problem, and faced with another crisis in 2001, BRSA had to intervene many times in the sector by making decisions about which banks would be taken over, which put it in a very critical position. That is why the political parties making up the coalition government were reluctant to lose their control over the sector and found it hard to reach a consensus over the chairman of the governing board, leading to a severe tension with the IMF. Although the members of the BRSA were appointed for 6 years in 1999, they were replaced three times in 5 years by some arbitrary tactics of policy-makers²⁴ (Sönmez, 2004). As an even bolder political initiative, proposals to change the administrative and financial autonomy of the IRAs in 2002 were severely rejected by the Minister of Economy Kemal Derviş (Aksam Online, 4 April 2002) who functioned almost like a Minister above the Council of Ministers during his stay in office.

More complex conflicts would emerge with regards to the content of the laws regulating the reforms as well as to their very implementation. Neoliberal reforms are discussed sometimes more with respect to initial laws and textual analysis than to conflict-ridden actual practices and subsequent amendments in the post-reform period. Yet, it is in those latter areas that the real dynamics about the relationship between politics and regulation is deciphered. And such dynamics find their historical origins, once again, in the earlier strategies pursued by Özal. Earlier, I said that his ad-hoc strategies had facilitated reform by overcoming opposition and ensuring rapidity with centralization of power. Yet, in the post-regulatory reform area, one can see the unintended consequence of those earlier strategies adopted also by subsequent governments: *Those ad-hoc changes, created an institutional structure producing its own vested political, institutional and economic interests, so that by the time of regulatory reform, they started effecting, if not fully blocking, change*. Such effects which created tensions leading to negotiations and bargaining between different actors can be observed very well in the area of public procurement where regulatory reform is perceived as a *direct threat to the state's ability to distribute rents during liberalization*.

The Public Procurement Law was enacted in 2001 under the coalition government headed by the Prime Minister Bulent Ecevit. Also a requirement of the EU membership, the law established the Public Procurement Agency (PPA) whose basic functions were to examine and evaluate all the complaints related to the procurements made by the public sector, to constitute legal materials, standard procurement

²⁴ For instance, in 2001, with the request of related minister, an additional article was added to the Law numbered 4672 which was making a change in the Banking Law numbered 4389 and the functions of the existent members ended after 14 months.

documents and contracts; to keep records of all the procurements made and of companies banned from participating to public procurements, and finally, to apply necessary sanctions for irregularities and illegalities which had become rule rather than exception in the absence of a central controlling agency in the previous period. Since the PPA has been responsible for checking state institutions which buys goods and services from the market (Sonmez, 2004), the vested interests in the traditional procurement methods and those institutions doing them felt threatened by the new regulatory arrangements.

At first glance, the Public Procurement Law can be read as a law which is enacted to facilitate the needs of globalization by making all tenders transparent and accessible to all capital groups no matter the nationality. The threshold values are put as the World Trade Organization (WTO) standard values, and to make sure that the company which wins the tender is in fact able to meet the requirements of procurement agreement (given that during the 1980s and 1990s many companies did not complete the requirements of the agreements as they should have) documents indicating production capacities, technical qualifications and experience of the bidder were strict requirements. Some authors argued that this earlier version reflects the interests of powerful transnational capital groups strong enough to meet those requirements (Ercan and Oğuz, 2006). However, after the Justice and Development Party²⁵ came to power in 2002, the new government made certain changes in order to increase its ability to control the distribution of rents via procurement process. For instance, the government made public banks, utilities sector, and transport services exempt from the requirements of the Law. Those exceptional arrangements were accepted as a result of the negotiations with the IMF and WB due to the fact that the priority of the WB and IMF was to make sure that privatizations are achieved quickly (Ercan and Oğuz, 2006). Moreover, the state economic enterprises and housing projects were also made exempt from the requirement of the sufficient budget for initiating procurement proceedings. Those ad-hoc changes can be thought, as making possible the accommodation of different interests (in that case for instance domestic capital groups with which the government had close links) and as giving the government enough leverage to keep some part of negotiable control in the allocation of resources. Recent research demonstrates strongly this point: Between 2002-2007, sixty percent of the procurements provided by the Emlak Real Estate Investment Company run by the Housing Development Administration, a public body, were allocated to the members of the business association the MÜSIAD²⁶ and businessmen with close links to the government (Doğru, 2008), showing how the economic struggle over resources takes a *political form*.

The government could hold its power in the energy sector in a similar way to the procurement. After decades of failed attempts at privatizing and liberalizing the industry where all kinds of ad-hoc strategies I mentioned were used, the Electricity Market and the Natural Gas Market Laws were enacted in 2001 to achieve the objective of privatization and liberalization of the sector with the establishment of the Energy Market Regulatory Agency (EMRA). Vested interests were the linkages between the relevant Ministry and the companies which had invested in the sector with the Built-Operate-Transfer contracts. The government wanted to keep its authority over energy prices since energy was a public utility and its full liberalization would directly affect prices for many social groups. With this objective, it delayed the tenders in the distribution business before the elections; re-scheduled privatizations by negotiating with the World Bank and confronted the IRA when it delayed the transition of cost-based tariffs, a very important component of liberalization reform (Salman, 2007).

²⁵ The JDP was formed after a split from the Virtue Party (the party which took that name after the closing down of the Welfare Party) and has close ties with what is called in the literature as 'Islamic capital' (small and medium scale enterprises which grew in the provincial regions and some of which accumulated more capital in a way to support globalization and liberal reforms). In the 2002 elections, the JDP was able to get the majority of votes in a way similar to the Motherland Party in 1983 by appealing to the working classes and getting the consent of the major business groups at the same time.

²⁶ The MÜSIAD is the association of private industrialists and businessmen, established in 1991 as an alternative to the TÜSIAD (Association of Turkish Industrialists and Businessmen) which historically represented the interests of big business groups which had close ties with the Motherland Party.

Not all power struggles with similar dynamics produce the same outcomes. In the banking sector, a similar attempt by the government to maintain the right to give banking permits in the hands of the Council of Ministers in 1999 was actualized by the initial Banking Law. However, the pressures put by the IMF led to amendments and the Banking Regulation and Supervision Agency was eventually granted this right to avoid politicization of the process (Alper and Öniş, 2002). This would be one, amongst other amendments made in the Banking Law,²⁷ showing how the law itself becomes a contested terrain of struggle.

The effects of established institutional structures, practices and their related vested interests can be further found in the conflicts between the individual ministries and international institutions. The Construction and Settlement Ministry (CSM), for instance, confronted directly the World Bank for obtaining privileges to keep its procurement activities outside of the scope of the Public Procurement Law. Here the issue at stake is not the bureaucratic aggrandizement which can be seen in any administrative unit, but a whole set of relations developed by the Ministry vis-à-vis other ministries and stakeholders involved in its activities. In other words, the Ministries and other bureaucratic units do calculate strategically their own relations with private interest groups as well. Power struggles do not only exist between interest groups but also between different institutions in critical decisions about the quantity, form and actors of resource distribution.

The path-dependent nature of regulatory reform does also effect the operation of the IRAs with respect to other public bodies with different objectives and priorities. IRAs had to enter into conflicts with the political actors and existing institutions over time: The Public Procurement Agency (PPA) confronted the Construction and Settlement Ministry over the delay in the amendments in the Public Procurement Law; the Banking Regulation and Supervision Agency (BRSA) confronted the government over its decisions. Such conflicts made the process of regulation more complex and political.

Such complexity could be observed very well in the energy sector, especially, due to the involvement of the high number of private and public actors and the fact that energy is a utility sector affecting many social groups. The Treasury, the Ministry of Energy and Natural Resources (MENR), the State Planning Organisation (SPO), the Competition Agency (CA), the public electricity companies and the EMRA with diverse priorities and objectives in the sector created deadlocks in generating efficient regulatory outcomes. For instance, motivated by its political links with business groups, the MENR blamed the EMRA for putting heavy fines on companies. The EMRA whose main priority is to achieve competition criticised the MENR of blocking or delaying measures geared to competition. The SPO which is responsible for approving investment decisions did not want to approve projects confirmed by the Ministry due to a potential danger of electricity surplus. Finally, the Treasury with a clear objective of fiscal discipline did refuse to give any more guarantees to Built-Operate and Transfer projects promoted by the MENR (See Derman, 2005; Arabul, 2005; Ocaktan, 2006). In such a lack of coordination between different institutions and constant power struggle, the EMRA found it difficult to make itself a legitimate actor vis-à-vis private groups who had different interests regarding the issue of energy and who continued lobbying the government. In other words, regulation after the IRA did not become simpler but more complex. This point is well formulated by the concept of “institutional accumulation” (Jordana and Levi Faur, 2004) which refers to “complex institutional settings that combined comprehensive and specialized public bodies aiming to shape public policy according to different public mandates and with different and often contradictory goals.” It is plausible to argue that in Turkey, the legacy of earlier market reforms embodied in a specific institutional structure (including public bodies with different public mandates, goals and vested interests) and in a specific way of governing and engaging with private actors left its trace on regulatory reforms of the last decade by contributing to this ‘institutional accumulation.’

²⁷ Changes were made within the Banking Law no 4389 in December 1999 by the law no 4491, in May 2001 by the law no 4672 and in January 2002 by the law no 4743.

Significance of regulatory reform in neoliberalism: insights for future research agenda

In this paper, I went back to the earlier phase of market reforms and tried to *decode the meaning* of today's conflicts and tensions in the regulatory reforms since 1999 at the very core of the specific nature and historical trajectory taken by neoliberalism in the Turkish context. My main argument was that the institutional framework of neoliberalism is not pre-given and the type of political strategies adopted by policy-makers left their traces on the current shape and pace of reform process, sometimes by unintended consequences, an aspect which needs to be taken seriously for any analysis of regulatory reform. In the Turkish case, the ad-hoc strategies adopted by the Özal government facilitated reform process by overcoming potential opposition and vested interests. In that sense, contrary to the argument of negative politics, politicians were successful in implementing many liberal reforms. Implementation can be selective, partial, ad-hoc and may take time, but the increasing hegemony of liberal reforms in Turkey, the fact that all solutions are produced within the confines of neoliberalism today indicates more success than failure. Yet, political strategies produced also the unintended consequence of creating a new institutional structure with its own vested interests. By the time policy-makers, highly constrained by financial crises and the inner contradictions of their own policies, had to adopt new institutional solutions in 2000s, the problems they faced and which made the reform process highly conflictual and difficult had their historical roots in the earlier phase of neoliberalism in Turkey. In other words, the temporal disjuncture between market reforms and regulatory reforms created both enabling and impeding factors for Turkish neoliberalism.

The paper shows that, even though there is a new regulatory discipline in establishing 'regulatory state' in countries such as Turkey, with the means of diffusion (Levi-Faur, 2005) -a term which does neglect the partially coercive nature of the implementation of regulatory reform for developing countries but rightly grasps the fact that regulation is something which is learnt via diverse networks among policy-makers- the way in which this discipline is executed highly depends on the domestic factors. Policy-makers are not passive recipients and negotiate terms and conditions of regulatory reforms with international institutions. Moreover, even though exogenous factors are important in encouraging, designing and initiating reforms, the current instability produced by market reforms in developing countries lead policy-makers themselves to seek for alternative instruments to cope with economic crisis and continue accommodating different interests.

The historical evolution of market and regulatory reforms as depicted in the Turkish case underlines the relevance of the literature on politics of regulation in which more research should be carried out. *Bringing politics back in* should not be limited to an analysis of diverse political actors in interaction with the regulatory institutions (and thus adding just a missing factor in regulation), but it implies a more substantial change in the nature of the debates on regulation: Regulatory issues are highly related to distributional concerns (both within capital groups and between different classes) and, thus will necessarily create conflicts which will need to be resolved at a platform of which IRAs are only one site, among others. The cases of banking, procurement and energy do all suggest that capital groups and other social groups are influenced directly by the decisions in the sectors and especially in countries such as Turkey it is highly difficult to discern where the scope of policy-making finishes and where the scope of regulation starts.

The paper focused on the historical trajectory of market reforms and its effect on regulatory reform but the importance of politics put into those terms can lead us to more *generalized conclusions* related to "the dual function" of regulation. As Levi-Faur (2005) argues, regulation is the constitutive element of capitalism but it is also a tool to socialize it and moderate its risks. Following up this argument, it is possible to argue that once market forces begin to operate with the help of institutions and the state, and create certain asymmetrical power relations between different groups, it is again political and regulatory institutions which need to intervene in order to cope with those problems. In other words, the contradictions and tensions, which emerge during the process of market reform, will need to be alleviated by the regulation of risk. The

need to accommodate different interests by politicians is tied to this problem. The fact that IRA is ascribed a social role in the UK by the government, and the fact that the government still intervenes in energy prices in Turkey illustrate this point.

It is because of this dual aspect of regulation that perhaps regulatory reform is and will always be incomplete or open-ended. The governments do and are likely to amend rules of regulation, laws which frame regulation when they can or if they need it. They do this within specific limits as I depicted above but until the IRAs themselves become well-established institutions with increasing legitimacy and with whom private sector groups have a well-established relation, it is relatively easier for the governments to create those areas of manoeuvre. One of the reasons which give this possibility to the government is again the incompleteness of neoliberal reforms. I tried to show how the IMF and WB were themselves willing to accept the exclusion of critical sectors' assets from the framework of the Public Procurement Law due to the necessity to privatize them very quickly. As a matter of fact, regulation appears to remain a contested terrain of action between international institutions, the government and the IRA in the near future. Such contestation becomes even more complex if we consider the issue of "institutional accumulation".

The research agenda on regulatory reform should proceed on the way opened by insightful studies in the literature which I mentioned during the paper, but also revise its very understanding of the way in which policy-makers as well as regulators, faced with conflicting imperatives and priorities, perceive what problems are, make decisions about the best solutions, actually implement policies, give way to unintended consequences and use different strategies within a set of available options in changing temporalities. In other words, we do need a framework more sensitive to the question of *agency* for theorizing the nature of and predicting the prospects of regulatory reform rather than making our analysis with respect to an ideal typical understanding of how a neoliberal regulatory framework ought to be.

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