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CUSTOMER VERSUS CITIZEN: THE NATURE AND FAILURE OF NEOLIBERAL DEREGULATION

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Abstract

Hierarchical coordination and Keynesian interventionist understanding, which achieved remarkable successes in the context of economic development and delivering a wide range of basic services after World War II, were seen as the cause of administrative inefficiency, poor economic performance, and financial deficits in the early 1970s. The proponents of New Public Management, based on neoliberal ideas, claimed that these failures stemmed from the state's intervention in the market, which caused the loss of market dynamism. They also claimed that while the state provided many public services, due to its monopolistic position, the services were provided in a monolithic way, and the demands of the citizens were not taken into account, whereas if these services are provided by the private sector, the services will be diversified, the service quality will increase and customer demands will be given priority. According to neoliberal thought, the realization of customer empowerment could only be realized through market mechanisms on the axis of competition. As a result of increasing neoliberal prominence in the early 1980s, many public properties were privatized, and many public services previously provided by the state were transferred to the private sector. However, the main motive of the market actors was profit maximization, and, unlike the Weberian period, services were delivered not to all citizens but only to the ones who could pay the service fee. In addition, market players could perform some activities contradicting the expectations about positive outcomes of competition. In order to dominate the market, the market players came together and set common prices, and giant ones eliminated small players, which initiated the emergence of the belief that the market could harm the public interest. In spite of the fact that various services were transferred to the private sector, the state was still held responsible for the problems experienced in these areas, which weakened the legitimacy of the state. The regulation deficit that emerged as a consequence of the withdrawal of the state from the market displayed the necessity of the state's involvement in the market activities. This article tries to study the period that required the return of the state to the market with regulatory roles and the background of this period.

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MÜŞTERİ VATANDAŞA KARŞI: NEOLİBERAL DEREGULASYON ANLAYIŞININ DOĞASI VE ZAAFLARI

Özet

II. Dünya savaşından sonra ekonomik kalkınma ve geniş sosyal hizmetler sunumu bağlamında kaydadeğer başarılara imza atan hiyerarşik koordinasyon ve Keynesyen müdahaleci anlayış 1970'lerin başlarında ise idari hantallık, ekonomik kötü performans ve mali açıkların sebebi olarak görülmekteydi. Neoliberal düşünceler üzerine kurulu yeni kamu işletmeciliği bu kötü sonuçların devletin piyasaya müdahalesi sonucu piyasanın dinamizmini kaybetmiş olmasından kaynaklı olduğunu iddia etmekteydi. Ayrıca devletin pek çok kamu hizmetini sunarken tekelci konumundan ötürü hizmetlerin tekdüze olduğunu ve vatandaş taleplerini göz önünde bulundurmadığını oysa bu hizmetlerin özel sektör aktörleri tarafından sunulması durumunda hizmetlerin çeşitleneceğini, hizmet kalitesinin artacağını ve müşteri taleplerine öncelik verileceğini iddia ediyordu. Bu vaadlerin gerçekleşmesinin teminatı olarak piyasa faaliyetlerinin rekabet ekseninde gerçekleşmesini gösteriyordu. 1980lerin başlarından itibaren üstünlük kazanmaya başlayan neoliberal düşüncelerin sonucu olarak yoğun özelleştirmeler ile pek çok kamu mülkiyeti özelleştirilirken daha önce devlet tarafından sunulan çok sayıdaki kamu hizmeti özel sektöre devredildi. Ancak piyasa aktörlerinin temel saiki kar maksimizasyonu idi ve sunulan hizmetler Weberyen dönemin aksine bütün vatandaşlara değil sadece hizmet ücretini ödeyebilenlere sunulmaktaydı. Ayrıca piyasa oyuncuları bir araya gelerek ortak fiyat belirleme veya büyük oyuncular küçük oyuncuları batırma yoluyla piyasaya hükmederek adil rekabetin gereğinden uzak faaliyetler gösterebiliyorlardı ki bu piyasanın kamu yararına zarar verdiği inancını güçlendirmeye başladı. Ayrıca çeşitli hizmetler özel sektöre devredilmiş olmasına rağmen bu alanlarda yaşanan sorunlardan hala devlet sorumlu tutulmaktaydı ve bu devletin meşruiyetini zayıflatmaktaydı. Devletin piyasadan çekilmesi sonucu ortaya çıkan düzenleme açığı devletin sürece dâhil olmasının gerekliliğini gösterdi ki bu makale devletin düzenleyici rollerle piyasaya tekrar dönmesini gerektiren dönemi ve bu dönemin arka planını anlatmaya çalışmaktadır.

Anahtar Kelimeler: *Neoliberalizm, Yeni Kamu İşletmeciliği, Kamu Hizmetleri, Özelleştirme, Piyasa Başarısızlığı*

1. Introduction

Hierarchy, market, and networks are alternative sources of coordination (Thompson, 1991:3-19). After II. World War hierarchy was installed as the coordination mechanism, and in time Keynesian interventionist policies articulated to Weberian state that enabled the state to become the dominant actor in the domain of economy. However, state interventionism was regarded as the source of administrative inefficiency, poor economic performance, and financial deficit in the 1970s. Neoliberal opposition fiercely proposed the market as the coordinating mechanism. An invisible hand which is the opposite pole of the intervention in the coordination continuum is defining characteristic of the market. For the supporters of New Public Management (NPM), market superiority stemmed from the competition through which customers get the opportunity to reach various products with better quality and lower price. Market mechanisms can only be applied in settings where market mechanisms have the prominence to function optimally without any essential external restriction. Following privatization, many basic utilities which were perceived as inherently governmental started to be provided by the private sector, and the market started to gain enlarging ground to function. Consequently, the aim of dismantling Keynesian interventionist mechanisms and installing market values was accomplished to a certain degree, and there was a considerable shift toward market dominance.

In order to encourage exchanges between actors and coordinate the activities of the individual actors in the market, self-interest and incentives are used frequently (Thompson, 2010:25). In another way, profit maximization is the driving force of the market actors who may easily disregard public benefit. In time profit maximization of business became the source of rising suspicion that without regulation market could not produce a framework for fair competition. The privatization and market prominence resulted in the regulation deficit that paved the way for rolling back of the state as the regulator in the market and guardian of public interest.

2. Privatization, Prominence of the Market, and Rising Suspicion about Market Superiority

Privatization and increasing prominence of the market do not mean only a transfer of ownership from public to private, but also the introduction of perfect competition and proliferation of actors which would empower citizens (Peters and Pierre, 2000:11). In order to be able to compete with rivals successfully in the market, private sector firms have to take into consideration their customers' preferences because consumer choice is the driving force for the markets (Thompson, 1991:8-9; Handler, 1996:81; Thompson, 2010:25). In a nutshell, the introduction of competition in the sectors that were previously dominated by a single supplier would create a sphere of autonomy for the consumer citizens where diversified goods and services became available (Eliassen and Sitter, 2008:55).

The transfer of public services was guided by the principle that there was no distinction between the provision of services by the public and private sector (Stewart and Walsh, 1992:500). NPM reformers disregarded the peculiar characteristics of public service with a distinct purpose, different perceptions of service recipients, peculiar terms and conditions of service. As a consequence, the allocation of functions between public and private sectors was built principally upon the economic ground. Market-oriented reforms strongly emphasized efficiency and performance as the pillars of administration while ignoring values pertinent to citizenship (Pierre, 1995:56; Christensen, Goerdel and Nicholson-Crotty, 2011:125).

The prevalent use of business techniques for the provision of public services caused difficulties in meeting some fundamental requirements about governmental legitimacy, which is not less significant than efficiency (Drechsler, 2009a:11). In the early phase, under the overwhelming influence of NPM fashion, there was difficulty in claiming the peculiar nature of the public sector. Carsten Greve and Peter Jesperson (1999,147) argue that "*the concepts of citizen, citizens rights and citizen participation are almost non-existent in NPM debates"* (quoted from Lynn, 2008: 6). Treating citizens as customers by emphasizing commercial ties while regarding the political nature of the relationship with the government in secondary importance caused to ignore participatory rights of citizens, which weakens the trust in the state (Schick, 2002:5; Olsen, 2005:6; Gregory, 2007: 23; Drechsler, 2009b:11) Public services could not be transformed in line with market values without detrimental effects (Vidler and Clarke, 2005:32) as private code of conduct hosted fundamental distinctions from the public one. In contrast to the NPM reformers' claim that focused on similarity, the distinction started to emerge in time. Consumer dissatisfaction functioned as the signal rocket for the argument of difference between the public and private. Contrary to the welfare state's policy of meeting the basic needs of all citizens (Pierre, 1995:60), Neoliberal understanding of "*state as a supermarket delivering a wide variety of public services"* (Olsen, 2005:6) and "*the public goods and services as commodities in the marketplace"* (Gregory, 2007:222) gave rise to increasing inequality. Financial power as the prime capacity for receiving services deepened residual economic inequalities (Pierre, 1995:72), which were minimized in some accounts during KWS. Public service, which is intimately related to the public interest, is supposed to be provided at least on an accessible and secure ground for all service recipients. However, there arose a nuisance that the business sector could not deliver services at affordable standards to all citizens (COCOPS; 2013). As Tony Blair put into words, NPM suggested*: "choice for the few, not for the many"* (quoted from Vidler and Clarke, 2005:22), which caused the rise of a claim that inequality is the deeply embedded peculiarity of the market (Pierre, 1995:65).

NPM harbored huge potential to generate negative side effects (Gregory, 2007:222), and in this context, NPM oriented competition lagged behind expectations and even gave rise to consumer dissatisfaction. *Only under rare circumstances* consumers get better privately provided public services (Handler, 1996:79). Under competition, consumer empowerment was overshadowed by the preponderant profit maximization of business, and the market mechanism could not be reliably coping with such unintended consequences (Olsen, 2005:10). Privatization could accomplish to be responsive for consumer empowerment, yet when consumer preferences contradicted with market priorities, the former was easily disregarded. Private providers' interests were performed without any essential control while consumers were circumscribed into a limited range of choices (Vidler and Clarke, 2005:22), and they could rarely exercise their promised power pertinent to autonomy. Subsequent to a decade of NPM implementation, it was difficult to assert concrete proofs that the market mechanism brings about any welfare maximization on behalf of consumer-citizens (Drechsler, 2009b:10). Thus, the claims of enhanced consumer autonomy under privatization could not be achieved as suggested by NPM promoters (Handler, 1996: 79).

NPM deregulatory policies built upon competition could not generate the possible positive consequences on behalf of consumer-citizens. And the new question was that could the market really bring into a relationship among opposing actors to achieve the goals which are not possible through bureaucratic mechanisms? In other words, it would enable '*something which otherwise would not be'* to be highly suspicious (Thompson, 1991:3).

Markets are often not good at creating coherence across a wide range of conflicting interests. In spite of the principle of taking into consideration consumer citizens' demands (Ricucci, 2001:175; Spicer, 2004:354), markets could not succeed in creating a robust platform to meet consumers' demands satisfactorily. Markets lack the capacity of coordination to produce the pre-established positive outcomes for the consumers. As market mechanisms function on the basis of group interest, it would be difficult to create all-encompassing values (Painter and Pierre, 2005: 2). There is a concern that if policies are determined by a group of individuals searching for the same ends, then there is a danger that more general public interest will be easily disregarded. Thus, its outcomes would, in all likelihood, not be acceptable to all segments of society. Market actors operate for their own benefits, whereas public interest is supposed to be the product of a continuous interaction including all affected individuals and groups (Pierre, 1995:62); thus market could not ensure that the public interest would be protected. On the ground of this characteristic, markets have always deeply rooted problems related to legitimacy.

As long as contractual rights are not guaranteed by governmental authorities, the consumers on the market cannot take part in any transaction with an assurance that the contracts will be fulfilled as defined. Without a sound endeavor of an authority to render private entrepreneurs compliant, business actors could neglect the rules which were prescribed with respect to the public interest. Therefore, it is indispensable to build a solid institutional framework within which exchanges between producers and consumers occur in a safe manner (Tiina Randma-Liiv, 2008: 8). Only an empowered regulatory state, not a deregulation-oriented market, can guarantee the implementation of a protective framework in practice. Without a regulatory framework, market actors could easily manipulate the system to perpetuate their ability to maximize their own profits.

3. Deregulation, Imperfect Competition, and Eroded Legitimacy of the State

It became evident that public properties and services can be privatized, but the legitimacy cannot. The market actors could not gain the necessary legitimacy to replace the public sector. After privatization, the state is still regarded as responsible for public services provision, especially in cases of failure. When there was a failure, even if the government formally transferred those services to business, the citizens could not be persuaded that the responsibility was carried out by the private sector. The privatization of public utilities did not take away the responsibility of government in the eyes of the public, and privatized entities remained to be a public sector concern (Pierre, 1995:75). The state was blamed in case of a railway disaster, power interruption, or water shortage (Peters, 2004:5). Privatization enabled states to transfer ownership but not enable them to give up responsibility pertinent to transferred assets and services (Thynne, 2006:382).

In addition, providers' expediency as prime concern caused ever-growing suspicion on market values. Since the priority of the private sector is profit maximization, the public interest could be easily ignored, and the dependence on interest-oriented private providers became the source of an increasing nuisance. Thus, any policy change related to education and health services or an interruption in power supplies, or a water shortage increased public dissatisfaction with the market mechanism. Especially considering the case of people having difficulty in paying for the provision of these services degraded the market values on the part of consumers (Vibert, 2007:25). Citizens became conscious that they were highly vulnerable against market actors when private entrepreneurs were not bound to take into account general interest. Increasing consumer citizens' dissatisfaction with the services they received from the private sector became a source fuelling the public-private difference argument. Private delivery failed to create benefits in terms of welfare, quality, price, and availability for consumers, and sites of persisted unresolved tensions (Vidler and Clarke, 2005:32) between public and private increasingly emerged in some form or another.

Citizens’ frustration stemmed from the quality of service delivery by the private sector (Aucoin, 1997:296) and growing barriers in front of equal access. Failures of privatized services functioned as a factor for the challenge of market superiority

(Thynne, 2006:390). The increasing public dissatisfaction pertinent to negative consequences upon privatized entities started to erode public trust (Drechsler, 2005:98). Eventually, a change was supposed to occur in transferred public services at the expense of neoliberal values (Levy, 2010:237). For some, essential characteristics of public and private spheres were differences, not similarities (Drechsler, 2005:95; Pollitt and Bouckaert, 2011:118). Public sector mechanisms functioned to overcome unequal access, whereas growing disparity in access to services became the marked peculiarity of NPM, which would inevitably give rise to problems pertinent to legitimacy (Vidler and Clarke, 2005:21).

The market failure stemmed from two false assumptions. One is ignoring the fundamental distinction between public and private provision, and the second is about overvalued expectations about the positive outcomes of competition. Although competition is generally appreciated mainly as a way of providing goods and services at the cheapest cost, NPM viewed competition in a more general and positive framework, including high quality and consumer autonomy (Dunn and Miller, 2007:347). NPM proponents confidently claimed that competition based upon deregulation by freeing dynamic market forces would give the most satisfactory outcomes for the consumer citizen. The introduction of competition into a sector that has been dominated by a monopoly would contribute to flourish of advantages on behalf of consumers (Eliassen and Sitter, 2008:61) because, in the competition, the providers must compete with each other to offer high quality and reasonable prices. Competition among providers stimulates creativity. Moreover, competition could encourage the genesis of highly capacitated citizens to stimulate the provision of goods and services in better and innovative ways (Dunn and Miller, 2007:348). In the sphere of competition, citizens should be regarded as customers, and service providers should compete for these customers. If there were any dissatisfaction pertinent to service, customers have the opportunity to receive service from another provider, such an empowered position (Peters and Pierre, 2000:11) granted customers a considerable influence for making changes in the features of services (Pierre, 1995:72). Even further, consumers' preferences were accepted as the core around which market relations were reshaped, and particularities of services were determined.

However, in practice, competition lagged behind the promises of the neoliberals, and privatizing government needs to ensure two separate regulatory frameworks for two kinds of privatization. At first, if a single actor is subrogated, the state was expected to create a domain in which the single actor could not create a monopoly and determine the quality and prices in disadvantage of the customer-citizens. The most widely accepted basis for government regulation of public services is the idea that under certain circumstances, the market cannot be expected to work perfectly on behalf of consumers (Vickers, 1991:164-165). Thus, market failures in some market transactions may have some unsafe consequences for consumers through the price mechanism (Eliassen and Sitter, 2008:76). Secondly, if the previous state-provided service was succeeded by multi actors, the state was expected to play the regulatory role of creating a platform for fair competition: to protect the weak actors against the giant ones and prevent near monopolists' abuse of dominant positions in the market. There were big actors having a leading role in the market or even having a tendency toward monopoly (Vickers, 1991:164-165). Extensive privatization and prominence of the enterprise did not bring about true competition; on the contrary, the outcome was competition for the market, not competition in the market. In both cases, the state was expected to introduce new regulatory rules to protect the customer-citizens from the market extremes, prevent the formation of monopoly in any sector, or facilitate the function of competition for the advantage of citizens (Scot, 2004:152; King, 2007: 7). Regulation of competition policy is to restrict cooperation of supposedly competing suppliers that may imperil the interests of consumers (Eliassen and Sitter, 2008:77). Finally, an adequate competition regulation supported by potent coercion mechanisms was needed. Such framework includes anti-trust regulation to ensure a healthy degree of competition which means privatized entities should be subject to competitiveness if the activity is not optimally carried out using natural monopoly (OECD, 2009:18-20).

4. Regulation Deficit, the Hollow State and Return of the State as the Regulator

The problems stemmed from the outcomes of privatization and the hands-off approach of business on the way of deregulation can be called a "*regulation deficit*." Deregulation policies weakened hierarchical mechanisms and policy capacities of the state (Painter and Pierre, 2003:1) but could not accomplish in installing well-functioning market mechanisms. NPM did not establish a coherent framework for the processes of policy-making and implementation. That's why, at the end of the day, the reforms put into practice in line with new public management have a hollow core (Vibert, 2007:37).

When *regulation deficit* became more prevalent, the hollow state provided a helpful metaphor to express the peculiarity of the situation. The state did not die or go bankrupt as claimed, but it became hollowed out. The hollowed-out state means the state devolved some critical roles to the market actors in line with neoliberal principles. It points out constraints upon the scope and forms of public intervention using privatization (Rhodes, 1994:139) and diminution of administrative capacity (Painter and Pierre, 2005:1). The hollowness paved the way for a reduction in the capacity of central government (Skelcher, 2000:5-9) to intervene and regulate, which created a severe threat to the legitimacy of government. Thus, the hollowness or *regulation deficit* cannot be sustainable in the long term as it causes growing harm about violation of public interests and weakens the state's legitimacy.

The loss of legitimacy was directly related to the context of *regulation deficit* where the government is perceived as "*unable to meet public expectation*" in terms of protection of public interest (Skelcher, 2000:5). It seemed logical that regulatory processes must be carried out by an actor that has the capacity of representing the public interest and should fulfill an influential mediating role during the conflict of interests (Pollitt and Bouckaert, 2011:120). One of the defining characteristics of the state is to accept collective good as a priority by disregarding any particular interest and reconciling conflicting interests (Stewart and Walsh, 1992:500; Pierre, 1995:62). In sum, the state can reconcile competing and conflicting demands and "*can be a real alternative to be the trustee of public interest"* (Rhodes, 1994:150).

Even though neoliberal policies eroded the administrative capacity and the state lacked the capability to function, the regulatory functions of the state still maintained to be a prominent source of legitimacy (Black, Lodge, and Thatcher, 2005:3). In order to save citizens from the extremes of the market, a regulatory vacuum needed to be filled by an actor regarding public benefit. The state, as the guardian of the public interest, was expected to undertake the regulatory function. Regulatory capacity is accepted essential for the governments to generate policies to protect the public interest. Enhancement of regulation was conceived as a way to strengthen public interest using creating a sound framework for fair competition. The regulatory administration is transformed into the guardian of the public interest. So to say, regulatory bureaucracy undertook the responsibility of impeding private interests to replace the public interest and building a "*protective shield*" (Christensen, 2011:97) against any particular interest. Unlike Keynesian interventionism**,** the state would carry out a public interest through regulatory functions by refraining from the active role of implementation and intervention. The primary task of the new economic regulator was to set up rules to bring about competitive markets. The experience of deregulation evidently indicated that smooth functioning markets and sustainable competition require sound regulations. The basic idea behind market regulation is summed up in Bruce Doern and Stephen Wilks' observation that *"neither competition nor the market is inevitable or natural, and that both must be sustained by regulation*" (1996: 1 quoted from Eliassen and Sitter, 2008:75).

Conclusion

The necessity for the introduction of new rules to protect citizens from extremes of the market paved the way for the state to return to the market as the regulator. On the one hand, the state transferred many public assets and services to the business sector; on the other hand, the state conceived as a true actor for the protection of citizens against the market uncertainties and to guarantee the standard of the services. In another way, privatization during the 1980s and early 1990s was followed by introducing new or revised regulatory activities (Painter and Pierre, 2005:7). Regulatory capacity was endorsed to deal with the problems of *regulation deficit*, which resulted in the functioning of deregulation and reregulation side by side (Vickers, 1991:166; Ayres and Braithwaite, 1992:7; Majone, 1997:143; OECD, 1997:8). In a nutshell, without having considerable progress toward NPM targeted deregulation, there appeared a need for reregulation. In order to empower the market mechanisms, governmental capacity to intervene in the market dwindled considerably. Nevertheless, since there is no case of complete deregulation as neoliberalism promoted (Majone, 1997:143), the moves on the way of deregulation gave way to alternative forms of regulation (Ayres and Braithwaite, 1992:7).

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