

**AN ANALYSIS OF A TRANSFORMATION: THE CONCEPT OF
PUBLIC SERVICE**

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ABSTRACT

AN ANALYSIS OF A TRANSFORMATION: THE CONCEPT OF PUBLIC SERVICE

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This thesis evaluates the current transformation of the concept of public service, which has been reflected as new trends in the domain of the public services, within the context of changes in the role of state and the discipline of public administration that have been experienced under the influence of neo-liberal policies of the post-1980s.

In the thesis, the concept of public service, which has been used in reference to administrative law, and dynamics of its transformation have been analyzed from the perspective of public administration discipline. In this regard, besides examining what public service is and its basic features, the connection between the transformation of the concept of public service and new genre of public administration, subsumed under the title of new public management, has been investigated. Throughout the study, the process, in which the transformation has taken place, has been examined in the light of the basic tenets of neo-liberalism, new public management, reinventing government and governance approaches by focusing on their distorting impacts on the public characteristics of the public services.

Keywords: The concept of public service, the domain of the public services, welfare state, neo-liberal policies, new public management.

ÖZ

BİR DÖNÜŞÜMÜN İNCELENMESİ: KAMU HİZMETİ KAVRAMI

Karabulut Uçar, Emel

Yüksek Lisans, Siyaset Bilimi ve Kamu Yönetimi Bölümü

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Bu tez, kamu hizmeti alanında yeni eğilimler biçiminde yansıtılan kamu hizmeti kavramının dönüşümünü, 1980lerin neo-liberal politikalarının etkisiyle devletin rolü ve kamu yönetimi disiplini içinde yaşanan değişimler bağlamında değerlendirmektedir.

Tezde, idare hukukuna referansla tanımlanan kamu hizmeti kavramı ve dönüşüm dinamikleri, kamu yönetimi disiplini perspektifinden incelenmiştir. Bu bağlamda, kamu hizmetinin ve temel özelliklerinin ne anlama geldiğini araştırmanın yanı sıra, kamu hizmeti kavramının dönüşümü ve yeni kamu işletmeciliği başlığı altında sınıflandırılan yeni kamu yönetimi yaklaşımı arasındaki ilişki sorgulanmıştır. Çalışmada, dönüşümün yaşandığı süreç; neo-liberalizm, yeni kamu işletmeciliği, yönetimin yeniden icadı ve yönetim yaklaşımlarının kamu hizmetlerinin kamusalılık niteliğine yönelik aşındırıcı etkilerine odaklanılarak incelenmiştir.

Anahtar Sözcükler: Kamu hizmeti kavramı, kamu hizmetleri alanı, refah devleti, neo-liberal politikalar, yeni kamu işletmeciliği.

To my Mother and Father...

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TABLE OF CONTENTS

PLAGIARISM	iii
ABSTRACT	iv
ÖZ	v
DEDICATION	vi
ACKNOWLEDGMENTS	vii
TABLE OF CONTENTS	viii
CHAPTER	
1. INTRODUCTION.....	1
2. WELFARE STATE AND NEO-LIBERALISM	5
2.1. Decline of Welfare State and Emergence of Neo-liberalism	6
2.1.1. The Construction of Welfare State.....	6
2.1.2. The Rise of Neo-liberalism	11
2.2. The Impacts of Neo-liberal Policies.....	15
2.2.1. The Role and Function of State.....	15
2.2.2. The Reflections of Neo-liberal Policies on Public Administration....	18
2.2.2.1. Transition from Public Administration to Public Management...	20
2.2.2.1.1. Public Management Approach.....	21
2.2.2.1.2. New Public Management	23
2.2.2.1.2.1. The Public Choice Theory	28
2.2.2.1.2.2. Managerialism.....	29
2.2.2.1.3. Reinventing Government	31
2.2.2.1.4. Governance	33
3. PUBLIC SERVICE.....	37
3.1. What is Public Service?	38
3.1.1. Market Failure.....	45
3.1.1.1. Public Goods	46
3.1.1.2. Merit Goods	46
3.1.1.3. Externalities.....	47

3.1.1.4. Information Asymmetry	47
3.1.1.5. Natural Monopoly	48
3.1.2. The Failure of State	49
3.2. Constitution of the Public Services	51
3.2.1. Constitutional Public Services	52
3.2.2. Virtual Public Services	53
3.2.3. The Authority of Local Government in the Establishment of Public Services	54
3.3. The Historical Evolution of the Concept of Public Service	54
3.3.1. French Experience	56
3.3.2. Anglo-American Understanding	59
3.3.3. European Union and Public Service	60
3.3.3.1. The Change in the Literature of Public Service	61
3.3.3.1.1. New Concepts in the Literature of Public Service	61
3.3.3.1.2. The Change in the Principles of Public Services	63
3.3.4. The Turkish Practice	64
3.4. The Domain of Public Services	67
3.5. Basic Principles of the Public Services	69
3.5.1. The Principle of Continuity	70
3.5.2. The Principle of Equality	70
3.5.3. The Principle of Adaptation	71
3.5.4. The Principle of Gratuitousness	72
3.5.5. Public Interest	73
3.6. Types of Public Services	76
4. TRANSFORMATION OF THE CONCEPT OF PUBLIC SERVICE	79
4.1. Dynamics of the Transformation	80
4.1.1. Dynamics of Transformation in Turkey	82
4.2. New Trends in the Domain of the Public Services	88
4.2.1. Trends Concerning the Content of the Concept of Public Service	89
4.2.1.1. Shrinking of the Domain of the Public Services	89
4.2.1.1.1. Privatization	91

4.2.1.2. Re-composition of the Public Services	96
4.2.1.3. De-budgetization Tendency in the Public Services	101
4.2.2. Trends Concerning the Methods of the Provision of the Public Services	104
4.2.2.1. Provision Methods of the Public Services	106
4.2.2.1.1. Provision by Government	107
4.2.2.1.2. Provision by Private Initiatives	107
4.2.2.2. Marketization	110
4.2.2.3. Fragmentation	118
4.2.2.4. Informalization	122
4.2.2.5. Charitization	124
4.2.3. Trends Concerning the Ethos and Language of the Public Services	127
5. SUMMARY AND CONCLUSION.....	134
REFERENCES.....	141

CHAPTER 1

INTRODUCTION

In the last three decades, the consolidation of principles of neo-liberalism has been witnessed in almost every aspects of life including economic, political and administrative spheres. Beginning from the 1980s, the global context has undergone a market-led transformation which brought about changes in the role and structure of state. As a result of this process, characterized by neo-liberal policies, number of changes have been implemented in the public sector such as deregulation, privatization and liberalization not only in advanced industrial societies but also in developing countries particularly, under the influence of structural adjustment reforms, imposed by global institutions such as International Monetary Fund and World Bank. A parallel change has also occurred in the field of public administration, both on theoretical and practical dimensions. Traditional public administration based on hierarchical bureaucracy came under severe criticism as it was blamed to be inefficient and unresponsive. In order to overcome deficiencies of the traditional public administration, new approaches have emerged that have been subsumed under the title of new public management. The essence of these changes is to introduce market mechanisms and private sector methods into the public sector aiming at to alter the institutions and methods by which public services are performed.

These contemporary happenings in the role of the state and in the field of public administration have implied a reinterpretation for the concept of the public service. As public services were seemed as a burden on the budget and subjected to serious criticisms as being inefficient, ineffective, uneconomical and unresponsive, the necessity of the changes in the domain of the public services has been underlined. As a result of this, number of changes, based on market mechanisms, have been introduced into the public services through privatization, contracting and public/private partnerships. In this process, the public services undertaken by the state have been devolved to the private sector and provision methods of public

services have been diversified to enable the private sector and the market mechanisms to participate and have a bigger role. These policies are resulted in the shrinking and marketization of the public services and triggered a radical transformation for the concept of the public service in terms of its meaning, content, provision methods and the nature having distorting impacts on the public characteristics of the concept of public service by the commodification of public services. All these changes have been championed by the discourses of public reform, efficient state, improved quality of the public services and providing accountability, transparency and democracy, whereas some critically react them as they consider this process as the liquidation of the social state. Due to these, the concept of public service has become an important theme to examine in terms of its transforming scope and definition. In this regard, the focus of present study is to thoroughly conceptualize the dynamics of this transformation with reference to neo-liberal policies, and related theoretical and practical changes emerged in the field of public administration.

Until now, the concept of public service and its transformation were studied with specific reference to its legal repercussions and legal interpretations. Moreover, the existing literature on the concept is not rich enough, and has accumulated by the writings of scholars and professionals from legal circles, in particular administrative law. The topic has not particularly drawn the attention of the scholars in public administration and political science. Only few passing remarks have been made, while examining the transformation of the state as a whole rather than treating the concept of public service in detail and in an articulate way. Therefore, in the present study the concept will be analyzed in terms of its weight within the field of public administration and its implication from political science perspective.

The main objective of this study is to try to answer the question “how the transformation of the concept of public service has occurred in the post-1980s and how the meaning of public service has changed parallel to the changes in the capitalist system within the context of neo-liberalism.” Furthermore, it seems important to elaborate on whether the transformation of the concept of public service is a reform or a liquidation process.

This study consists of five chapters including this first introduction and the last conclusion chapters. In the scope of second chapter, a general portrayal of background historical developments, which seem to dominate on the transformation of both the role of state and the field of public administration, is going to be drawn so as to understand the recent transformation of the concept of public service. This chapter will describe welfare state, which represent expansive level of public services and the neo-liberalism, according to which new policies were implemented in the role of the state and discipline of public administration causing shrinking and marketization of the public services. Then, the new right ideology which can be defined as the ideological base of neo-liberalism is going to be explained briefly, and the relation between the new right, neo-liberalism and the transformation will be questioned.

In addition to welfare state, neo-liberalism and the new right relations, in the same chapter, the theories of public choice, new public management, reinventing government and governance approaches, which provide theoretical and methodological framework for the transformation of the public sector as a whole, are going to be analyzed. Furthermore, the connection between these approaches and neo-liberal policies will be considered. In order to discuss these issues, the ideological and historical roots, principles and instruments of these approaches, which have had a rising trend throughout 1980s, are going to be examined by making a critical analysis of relevant literature.

The third chapter will be devoted to an elaborate examination of the concept of public service itself. Firstly, the definitional problem of the concept will be investigated and different approaches towards the concept that have emerged in the historical dimension will be introduced and compared in order to give a comprehensive analysis of meaning and its theoretical and contextual frameworks. Following these, the ontological premises, basic components, features, principles and types of the public services, which distinguish public services from activities of private sector, are going to be described.

The fourth chapter aims to evaluate critically the transformation of the domain of the public service by analyzing the dynamics of the transformation with

specific reference to neo-liberal policies and new approaches of public administration subsumed under the title of new public management. In the scope of this chapter, the repercussions of the transformation of the concept of public service, which has come into being as new trends in the domain of public services, on the field of public administration are going to be put into a critical examination, particularly focusing on the Turkish practice. Thus, the method of the thesis will follow a way from more general theoretical aspect to a more specific practical dimension.

In the concluding chapter, a general evaluation of the transformation of the concept of public service, which has distorting effects on the public characteristics of the public services, will be provided by the means of theoretical and methodological tools analyzed within the previous chapters.

To sum up, the main objective of this study is to evaluate critically the transformation of the concept of the public service within the context of neo-liberal policies and new public management approach implemented since the 1980s, and to analyze the basic debates about the transformation of the concept in terms of the political science and particularly public administration perspectives.

CHAPTER 2

WELFARE STATE AND NEO-LIBERALISM

The multi-dimensional transformation process that the capitalist system has experienced since the late 1970s has appeared with a parallelism with neo-liberal policies and the new right ideology (Aksoy, 2003:546) that emerged after the dismantlement of welfare state. In this context, the construction and depression of the welfare state that represents expansion of the public sector and the public services seems to be an important aspect that should be taken into consideration as a stage of evolution of the capitalist system. In order to provide political and historical background for the changes and understand their reasons, it is compulsory to examine the basic historical and theoretical framework of these developments that gave birth to the debate of transformation. Since the focus of this study is the transformation of the concept of public service and its dynamics, a brief presentation of the new right, neo-liberalism and welfare state that shape economic, social and political conditions of the transformation will be made without going into details.

In the literature, neo-liberalism and the new right are frequently used as synonymous concepts (i.e. Gamble, 1986, Pierson, 1991). In this context, “the concept of new right is generally used to define both neo-liberalism and new conservatism” (Sallan-Gül, 2004:85). This frequent misuse originates from the fact that these two concepts have been employed to refer to same process that capitalist system has experienced since the 1980s, disregarding the conceptual difference between them. Despite the existence of such a difference, these two concepts are closely related to each other. Furthermore, following Aksoy (2003:546), it might be claimed that neo-liberalism is one of the basic sources of the new right ideology as well as new conservatism and public choice. At first glance, in spite of the risk of simplification, neo-liberalism can be described as the policies and economic reform packages that proposed as a prescription to the second great crisis of capitalism that was experienced in the mid-1970s. These policies have underlined the superiority of private sector and the market mechanisms aiming at narrowing the public sector and

cutting public expenditures used for public services. On the other hand, the new right, consisted of conservatism and liberalism, might be characterized as the ideological framework of neo-liberal policies (Akdeniz, 2001: 18). Similar to neo-liberal policies, the importance of free market and the reduction of the role of state are central in the new right. For the new right, the free market is accepted as a more efficient and productive method of allocating resources in society, protecting and promoting greater freedom and allowing choice compared to state (Johnson, 1997:34). In the implementation of neo-liberal policies, which emphasized the priority of private sector and market mechanisms vis-à-vis the public sector and necessity of limiting the role of state, the right-wing governments have played pioneering role. However, in some cases, the introduction of market-oriented changes inspired from neo-liberal policies have been undertaken by the regimes of left, for example in Australia and New Zealand. Therefore, in this study, the concept “neo-liberalism” will be used to refer to changes that capitalist system has experienced since 1980s as an all embracing term, because as Walsh (1995:xxii) convincingly claims, “it cannot simply be asserted that the changes are the result of the new right”.

2.1. Decline of Welfare State and Emergence of Neo-liberalism

2.1.1. The Construction of Welfare State

Throughout its history, the capitalist system has experienced number of crises that might be named as crisis of capitalist accumulation, and each crisis ended with a restructuring process. The Great Depression of 1929, after which many political changes occurred such as rise of fascist system, contemporary democracy and welfare state might be considered as a benchmark in the history of capitalist system. After the Great Depression, which was first appeared after the depression of New York Stock Market then became widespread all over the world, many countries applied new policies that assigned new roles and functions to the state in its socio-economic activities in order to overcome crisis. Although many reasons might be

stated for the emergence of the welfare state, the Great Depression of 1929 might be accepted as the most evident reason. In other words, welfare state can be described as the product of the Great Depression of 1929 that advanced, industrialized, capitalist countries have experienced (Şaylan, 2003:70).

It is possible to find welfare state examples during the period of classical liberalism. This early type of welfare state was based on the social security programs, according to which social aids and partial insurance systems were implemented without distorting the free market order because the main objective of these programs were minimizing poverty and preventing the possible revolt of working class. Although such practices were present, the concept of welfare state has gained its contemporary meaning and content after the Great Depression of 1929 (Sallan-Gül, 2004:144) and after the World War II, it had become a prevalent institution of capitalist restructuring process all over the advanced capitalist societies (Eren, 2005: 20).

The welfare state might be classified in terms of different branches of social science such as economics, politics, and sociology. The existing classifications focus on various dimensions of welfare state¹. In this study, the focus will be the Keynesian Welfare State which might be characterized with the expansion of public sector and the domain of public services. As mentioned above, the theory and practice of welfare state has become widespread after the Great Depression of 1929 and particularly after the World War II, it became prevalent institution in advanced capitalist societies. However, in practice, welfare state practice of one country had differed from another country with respect to class structures, historical backgrounds of these states. In these societies, due to different application methods, content of state intervention into economy, the scope of social policies and public services and public/private relations in the provision of public services had been reflected in various forms, which embodied as different kinds of welfare state (Eren, 2005:20).

Welfare State had appeared as a solution to the crisis of 1929, which appeared with the decrease in the rate of the profits, bankruptcy, stagnation of investments and high level of unemployment. In such a circumstance, the state aimed at increasing

¹ See Arın,1996 and Eren,2005 for detailed classification of welfare state

demand via total demand management. This implied a new type of state that undertakes new roles and functions compatible with the transformation of the capitalist system. According to its new role, states began to intervene with socio-economic activities as a producer and consumer as well as a regulating agent. Welfare states provided unemployment benefits, education and health services and social aid programs aimed at the disadvantaged. The public enterprise sector was also grown rapidly in many parts of Europe until the mid-1970s.

In this respect, the emergence of the second-generation rights is another aspect that should be taken into consideration in terms of the constitution of the welfare state (Şaylan, 2003: 84). After the industrialization process, which advanced capitalist societies had undergone, the classical liberty understanding based on the negative liberty approach began to be target of criticisms. According to the classical approach, freedom was understood as being free from coercion and restraint in order to maximize individuals' interests as rational beings. In this process, states had undertaken new functions in order to soften social inequalities that have arisen as a result of industrialization. This process can be called the formulation of socio-economic rights that implied an active role for states so as to provide more just and equal social order. According to these, the provision of social services such as education, health, housing, and social insurance had been considered as the function of state. In this way, states aimed at maintenance of social equity, democracy and more reliable public service provisions. In this process, besides the market economy there occurred a new sphere of economy called command economy, which aims at the production and distribution of public services all across the society by state (Şaylan, 2003a: 582).

As stated above, the crisis of 1929 was a turning point in terms of the construction of the welfare state although it cannot be abstracted from the broad perspective of political, economic and social developments. After this crisis, the level of production and employment were decreased and there have arisen social and political conflicts as a result of which the capitalist system lost its reliability. As the first action to the crisis, states abolished the constraints that hindered the functioning of the free market order in order to provide equilibrium of supply and demand.

However, all of these measures failed to overcome the devastating effects of the crisis. In this process, in Great Britain the commission, which was constructed under the leadership of John Maynard Keynes, proposed some strategies as a solution to the crisis. According to these, the real reason of the crisis was the decrease in the level of total demand. For Keynes, the only way of salvation from the crisis was state's direct intervention into the economy for the purpose of increasing the total demand and providing full employment. In this manner, increased consumption was expected to stimulate investment (Stewart, 1993:87). Parallel to these suggestions, states began to make direct investments and expenditures as well as providing spurs and subventions to private enterprises. After the World War II, with the Fordist accumulation model, which based on Taylorist methods of rationality, all these practices became widespread all over the world, especially in democratic socialist governments by providing a consolidation on a new type of state called the "welfare state", with new roles and functions in socio-economic sphere.

In this specific state practice based on Keynesian strategies, the basic premises of liberalism such as invisible hand, self-equilibrating market, and individualism were forsaken by state intervention and collectivism. Parallel to these, the scope and content of public services expanded including social security, unemployment and retirement insurances, education and health services. Parallel to their new roles, states acted as an entrepreneur especially focusing on the areas of infrastructure and social services. Besides, some industries were nationalized and, in turn, a total expansion in the public sector had been witnessed. In the period of Keynesian welfare state practice, states began to apply economic regulations such as controlling rate of interests and money supply. However, Keynesian strategies were not only technical economic rules but also political instruments for the purpose of class consensus, claiming to provide an equal and just social order. The laissez-faire system was opposed by emphasizing priority of political realm vis-à-vis economic sphere. In this regard, the welfare state implemented redistributive policies by the tools of taxation and public services in order to provide a solution for income inequalities.

For Arin (1996:56), this new type of state brought about some changes that did not exist in the free market order as follows:

- 1- Economic functions were regulated on the axis of social and collective objectives in order to maximize social welfare
- 2- Citizens had rights to demand basic needs from state and in the case of market failure, state was charged to satisfy these needs
- 3- In the political sphere, arbitrary practices of governors were replaced by objective rules and formal equality understanding that was formulated in order to ensure rights of citizens (Arin, 1996: 56 quoted from Young ,1990).

According to this, the most evident feature of the welfare state in terms of the provision of public services is that public services provided by the state have been conceived as a right of being a citizen. In this context, “the concept of right has gained new content and the ideas of social citizenship and social rights came to the scene in order to provide social justice” (Arin, 1996: 56). It is important to note that although basic premises of the liberal economy were forsaken with its construction the practice of the welfare state did not emerge as an alternative to the capitalist social order. The rise of capitalist states engaged in welfare activities is a stage of capitalist economy aiming at overcoming the economic crisis by eliminating overproduction through increasing consumption and providing economic growth by creating public investments. In this sense, as stated by Aksoy (2003:546), the construction and institutionalization of welfare state was undertaken by state itself. In other words, the state was accepted as the regulator of these changes as well as being a part of these processes (Aksoy, 2003: 546). For some, the welfare state along with its specific features means the end of capitalism and its replacement with a different society. However, as argued by Gough (1981:13), the welfare state practice should be described as “a constituent feature of modern capitalist societies” because welfare state was an instrument in re-construction of the capitalist state that had taken new roles compatible with the capitalist development so as to secure reproduction of itself and current model of accumulation rather than being a rupture of capitalist social order.

To sum up, welfare state, which had been prevalent institution since 1930s until 1980, was a turning point in the history of capitalism. With the welfare state,

number of changes was implemented in the economy and society such as Fordist mode of accumulation and direct state intervention to economy. As a result of these, the public sector expanded as to include many social services, therefore, welfare state symbolizes an expansion in the scope and depth of public services. However, as mentioned by Eren (2005:20), despite the existence of opposite practices to capitalism such as direct intervention to economy and expansion of the domain of public services, welfare state increased the legitimacy of capitalist liberal democratic regime, which had been under serious attacks of alternative economic and political regime pioneered by Soviet Union, in the eyes of masses.

2.1.2. The Rise of Neo-liberalism

Despite the worldwide consensus on welfare state practice based on Keynesian policies, it was subjected to severe criticism with a new crisis of the capitalist system in the 1970s. This crisis was first appeared after the oil shock of 1973 with the decline in the rate of profits, stagnation, budget deficits and high-level unemployment. The welfare state and the Fordist pattern of production, which is based on mass production, were perceived uniquely responsible for the crisis. In this regard, the role of state in socio-economic activities has been put under critical questioning as the rising public expenditures and state intervention to the market has been considered the main reason for destruction of profitability, productivity and freedom of individuals. During this process, states have adopted many “reform” packages in order to deal with the crisis. The main objective of these reforms included expanding the capital circulation and removal of all constraints which make this circulation difficult. According to these policies, the priority of market mechanism was emphasized by limiting the scope of the public sector vis-à-vis the private sector and lowering the public expenditures that were used for the fulfillment of the public services. As a result of these policies, liberalization of finance and trade, deregulation, privatization, marketization of public services and minimal state has become new themes which have challenged the roles and functions of former

Keynesian welfare state. In this process, the method of providing welfare for citizens has been presented as the policies formulated in compliance with the rules of free market.

The neo-liberal policies that were proposed as a solution to the crises might be summarized as “less state, more market”. The role and function of this new type of state, defined according to market-oriented discourse, were limited to provide law and order as in the case of laissez-faire capitalism by withdrawing its socio-economic functions. Through these developments, it is argued that politics should be technical instrument and the state should not intervene into the sphere of market. In this process, the market mechanism, free competition, priority of the private sector and individual initiative were championed as an alternative to the public sector and state intervention because the private sector has been considered superior to public sector in terms of efficiency, effectiveness and productivity. In order to fulfill this aim, various policies have been implemented into the public sector as indispensable policy choice that caused a reconstruction in the relations of public/private sectors. The most salient ones of these policies are the privatization and deregulation which aim at reducing state activities in the market via transferring state-owned enterprises to private initiatives, reducing constraints over the private sector, cutting public expenditures, diversifying the methods of public service provision to enable participation of private sector and market mechanism and decreasing the number of civil servants.

Neo-liberal policies have found worldwide application area in a short period of time. Particularly, right wing governments under the leadership of Thatcher in Great Britain (1979-1991) and Reagan in United States (1981-1989) had pioneering roles in the implementation of these policies. In advanced capitalist societies, the liberal conservative governments which refuse socialist democratic consensus on the Keynesian welfare state put these policies into practice. According to them, to prevent rising public expenditures that resulted from increasing demand of social welfare services, the activities of governments should be limited. Moreover, to provide “economical, efficient and effective” public service provision, new institutions, mechanisms, institutional reforms must be constructed compatible with

market mechanisms. At the end of this reconstruction process, the role and structure of the state have been transformed through the market values. Although these policies were first implemented by right wing governments based on liberal conservative values, in short the new right, “democratic socialist states” like New Zealand and Australia have adopted these policies as well. Furthermore, the international financial institutions have compelled third world countries and eastern bloc states, experiencing deep crisis, to adapt these policies. Under the title of “Structural Adjustment Programs”, International Monetary Fund (IMF) and the World Bank (WB) have imposed various policies for sustaining payment of their loans with the high interest rates. According to these policies, several market-oriented changes have been implemented in these countries including privatization, deregulation and export substitution economy instead of import substitution economy. Furthermore, financial policies were liberalized in order to provide articulation to global economy. Neo-liberal policies found reflections in Turkey as well. Particularly, after successive economic crises, neo-liberal policies have been considered as a prescription to cope with distorting effects of crises by Turkish governments and therefore, the context in which the transformation has occurred in Turkey might be summarized as neo-liberalism.

Neo-liberalism, composed of policies proposed for the crisis of capitalism experienced during the mid-1970s, has been adopted by both advanced capitalist societies and third world countries. However, despite the stability in the expansion of neo-liberal policies, there occurred changes in the activation of neo-liberal policies throughout its history. Although the debate concerned with the size of the state has not completely disappeared, more questions about the role of the state have emerged. Minimal state and deregulation discourse of the early 1980s was replaced by regulatory state and re-regulation throughout the late 1990s and 2000s. The discourse based on any intervention of state to the market was evolved into the small but efficient state that is assumed to set a legal framework in which the market can operate properly. However, this new type of regulation namely “re-regulation” is different from regulation activities of welfare state because throughout welfare state era, regulation function of state, based on direct intervention to market, had aimed at

income equality and redistribution of social resources, although the basis of capitalism was not abandoned. The new type of regulation and new type of state, based on indirect intervention to market by making legal regulations, called regulatory state aims at providing the maintenance of competitive free market. Therefore, this new type of regulation namely-re-regulation is nothing else an instrument of providing well functioning of the market. Neo-liberal policies have also implied a new type of accumulation regime according to which marketization and financial liberalization were emphasized (Ercan, 2002). This new accumulation regime has been widely championed by making its own justification claiming more economic, efficient and effective public service provisions. As stated by Jessop (1998), in order to fulfill the preferred accumulation regime the state tries to construct appropriate ideological and political grounds. In other words, this means creation of a hegemonic project. Thus, the transformation of the role of the state might be named as a “hegemonic project” that aims to transform all spheres of society.

Taken together, neo-liberalism might be summarized as;

Neo-liberalism poses itself as the end of the social. It seeks to unshackle social actors from social constraints, to enable the firm freely to maximize its profits and the individual his or her “utility”. Private property is to be freed from collective rights and obligations, in particular state interference, though the state is required all the more strongly to protect property from infringement by others (Gough, 2002:405).

These policies also imply particular relations between capital and labor in which the worker confront capital as individual rather than a member of a collective or a citizen. This, in turn, causes the fragmenting labor and fostering depolitization (Gough, 2002:406). Briefly, with the implementation of neo-liberal policies, a total transformation process has been witnessed in almost every aspects of life from economy to social system by altering the market/state relations, the weight of private and public in socio-economic activities and state/citizen relations as a whole.

2.2. The Impacts of Neo-liberal Policies

Neo-liberal policies, formulated as a response to the crisis of the mid-1970s, cannot be reduced to economic restructuring process. Despite the technicist emphasis of neo-liberalism in the spheres of economy and politics, it has implications in terms of other aspects of life, including the political, social and administrative spheres. Parallel to these, neo-liberal policies have influenced the discipline of public administration both on theoretical and practical dimensions. In this process, the existing paradigms of the discipline of public administration were put into critical questioning and the necessity of a paradigmatic change has been emphasized (Gray and Jerkins, 1995:75). Under the influence of this discourse, public administration has undergone a transformation in which the basic assumptions of traditional public administration have been forsaken. This change has not meant an alteration in administration style, but also a transformation for the role and the structure of the state having adverse impacts on the size of the public sector and scope and depth of the public services.

2.2.1. The Role and Function of State

Within the period, in which neo-liberal policies have taken place, a remarkable change in the structure and role of state has been witnessed, symbolizing a departure from the former expansive responsibility of welfare state in the socio-economic activities and social provision. Since state intervention was conceived as the perpetrator of the creation of monopolies, limitation of enterprise, and increase of waste and inefficiency, the role of state in the economy has been expected to be withdrawn. The active role of state has also been criticized as it has limited individual freedom of choice. On the pretext of promoting freedoms, allowing individual choice, preventing waste, inefficiency and unproductivity, the market mechanisms and the private sector have been extolled as a model to be adopted. Due

to these, the values of free market and decreased role of state has been pivotal within the context of neo-liberal policies. Considering all these facts, the changes in the role and the structure of state might be called the marketization of state. Although it was neither a homogeneous nor a unidirectional process, this practice has some common features shaping the transformation. The basic components of the transformation of the role and structure of state that occurred in the period of neo-liberalism might be summarized as follows:

a) *Changes in the mode of production: Post-Fordism:* Under the influence of neo-liberal policies, post-Fordism has become another theme dominating transformation of state. A further argument asserted that the changes in society are resulted from changes in the mode of production². Throughout the beginning of the 20th century, the valid production mode used to be Fordist³ techniques, based on mass production. In Fordist production, a single product is manufactured by using the same large machines. The high production costs necessitate large market volumes, therefore both the production and the consumption is large scale. In this process, the state played crucial role so as to provide the demand for mass produced goods. In order to achieve this aim, states made Keynesian intervention and produced inputs for private sector as well as public goods and services such as health education, housing and infrastructure (Henry, 1997: 4). The workforce is managed by Taylorist methods to provide rationality and productivity.

Beginning from the 1980s, the production mode has changed to a post-Fordist mode particularly under the influence of the change provided by microelectronic and computer technology, to produce different goods in a single production line. With the impact of Post-Fordism, based on flexible techniques, the size of the organization has decreased, and the number of workers has been reduced to a qualified core staff. The peripheral workforce around them made of part time workers. Post-Fordism has also implied a fragmented structure of organization, each part dealing with detailed works based on specialized and narrowing skills. Post-bureaucratic management is

² see the ideas and theories of Regulation school (Aglietta, Lipietz, Boyer, Hirsh and Jessop) which grasped the reproduction of capitalism on the axis of crisis of Fordism

³ This type of structure was by the Ford Motor Company with its conveyer belt technology and routine standardized workings (Henry, 1997:4).

also one direct result of the post-Fordist work theory. Post-bureaucracy contains management solutions such as Human Resource Management and Total Quality Management (Grey and Garsten, 2001).

b) *The shrinking of the public sector:* The state is widely accepted to be one of the most important institutions of the resource allocation. Such kind of role of state, which was increased throughout welfare state era, created a large public sector that can be expressed by the number of public employees, the level of public service provision, the amount of public expenditures and state ownership of industry (Rhodes, 1994:139). However, this expansion has come under severe criticisms, particularly with the impacts of neo-liberal policies during the 1980s and the 1990s. According to this criticism, the public sector had become inefficient, unresponsive and wasteful as compared to the private sector. Therefore, the deficiencies of the public sector should be overcome by the market-oriented techniques of the private sector. In this context, privatization was offered as a solution to deal with inefficiency and unproductivity, which resulted in the shrinking of the public sector.

Privatization, which has been popular concept during the 1980s and 1990s, is the most common indicator of the changing relationship between the public and the private sector. Although the term privatization has several meanings, in its most well known form it means the transfer of state-owned-enterprises to private entrepreneurs through partial or total sale of the ownership. As a result of this transfer, public enterprises, which used to be charged for fulfillment of the public services, and provision of the some of the public services have been devolved to the private sector narrowing the domain of the public sector.

c) *Decentralization:* Beginning from the 1980s, a new type of division of authority between central government and local governments has emerged within the context of decentralization. In this process, decentralization of decision-making and the delivery of the public services have been favored by the concepts of localization, democratization, participation and improvement of quality in the public services. In this process, the authority of central government has been limited by assigning its tasks to local government wherever possible. This has also facilitated private sector

participation into the provision of public services by the means of total privatization or contracts.

Within the same period, independent regulatory agencies have emerged as a crucial institution of administrative structures. These institutions especially have concentrated on economic activities of the state having different features from the other administrative units in terms of extraordinary rights about regulation, control and sanction. Due to these characteristics, the emergence of independent regulatory agencies implied delegation of authority from legislature to these agencies (Sönmez Ü., 2004).

Meanwhile, the subsidiarity principle, which has become fashionable during the process of integration to the European Union, aims to provide services closer to the beneficiaries of the services. Accordingly, new methods and implementations to decentralize public service provision have occurred.

2.2.2. The Reflections of Neo-liberal Policies on Public Administration

As mentioned before, in the process of crisis and restructuring, the theories and practices of public administration have changed parallel to structure of capitalist economies. In this period, administrative theories and practices were subject to serious criticisms because it was thought that the methods and principles of traditional public administration were inadequate to overcome problems of inefficiency and unresponsiveness. Furthermore, the existing theory and practices of public administration were conceived as the source of problems in terms of their rigid, highly centralized and bureaucratic natures. Hence, public administration experienced a prestige lost at theoretical and practical levels (Ömürgönülşen, 2003:5, 17). These debates on public administration have provoked the discourse of paradigm change. Due to this, traditional public administration has been tried to be replaced by the public management approach and successive approaches of new public management, managerialism, and the reinventing government. Public administration, which is the action part of government, and “by which the purposes

and goals of government are realized” (Caiden, 1982:2) has dominating role in terms of domain of the public services because public administration constitutes the basis on which public services operate. In other words, public administration might be characterized as structure that shapes decisions and behaviors of actors. In this regard, the domain of public services, which is a phenomenon of state activity, is closely related to the field of public administration. Public administration also symbolizes institutionalization of public service organizations. Therefore, in this part of the study, basic principles, demarcation lines, and interactions of these approaches, which have transformative influences on the concept of public service, will be examined in terms of their relation with the neo-liberal policies. Later on, their probable impacts on the transformation of the concept of public service are going to be analyzed in detail within the scope of following chapters.

Since its emergence, the discipline of public administration has experienced a “paradigm problem” with various appearances. As mentioned by Dwight Waldo (1968), this problem might be described as an “identity crisis” of public administration (Üstüner, 1992). The roots of identity crisis can be found in the politics/administrative dichotomy that occurred with the emergence of public administration as an independent discipline. Throughout the first years of the 20th century, with the impact of classical liberalism the role of the state had been limited to the legal regulation of economic activities because the market system was thought as the best and most just way of production and distribution of goods and services. According to this limited role of state, administration/politics dichotomy was emphasized in order to provide a new type of state based on technical administrative principles deprived of rules of politics. The main allegation of this discourse was to make public administration more rational, efficient, economic, effective, and productive like private sector management. Thus, the differentiation between public administration and business administration has become ambiguous and the techniques and tools of the private sector have been applied to the public sector.

After World War II, in the era of the welfare state, with the rise of state intervention into socio-economic life, the administration/politics dichotomy was refused at the end of which politics has become dominating figure instead of business

administration in the field of public administration. However, as stated before after the crisis of the 1970s under the influence of neo-liberal policies, the role of the state in socio-economic activities has been transformed. According to this new role⁴, the state has returned its classical roles by abandoning its economic functions. As a result of this, the administration/politics dichotomy of the 1900s has revived and administration has been conceived as a technical function severed from the political dimension. Through its technical understanding, administrative structures were perceived as the supply agent of the public services that do not have any competence in the political aspects (Güzelsarı, 2004:2). Hence, “public management” has emerged as a new approach at the end of this process⁵.

2.2.2.1. Transition from Public Administration to Public Management

The term public management has emerged as a rival and alternative to the term public administration. Furthermore, public management was sometimes used to refer to public administration (Bozeman, 1993: xiii). In addition, the term management is usually used synonymous with the term administration (Ömürgönülşen, 2003:7). However, as Hughes argued, they do not have same meaning. According to Hughes (1998:4), “administration is a narrower and more limited function than management.” “Administration essentially involves following instructions and service, while management involves: first the achievement of results, and secondly, personal responsibility by the manager for results being achieved” (1998: 5)⁶.

Despite the various ideas about whether the public management approach provided a new paradigm or not, it is clear that it brought significant changes into the public sector. Beginning from the 1980s, the public sectors of advanced western societies have experienced a great transformation with the transition from traditional public administration to public management. “It follows from this semantic

⁴ Rolling back the frontiers of the state, withdrawal of government

⁵ See Perry and Kraemer, 1983 for public management approach

⁶ See Hughes, 1998 for details of management/administration separation

discussion that a public service based on administrative concepts will be different from one based on management” (Hughes, 1998:6). According to the public management approach, rigid, hierarchical, bureaucratized, highly centralized structure of traditional public administration was intended to be replaced by the flexible, market-oriented, de-bureaucratized public management. However, the transition from traditional public administration to public management cannot be considered as a simple change in the administration style. On the contrary, through this transition, the main principles of public administration were forsaken in order to provide de-bureaucratized, cost-conscious, customer-focused, in short a market-oriented public management approach. “In consequence, change from public administration to public management meant a major change of theory and function” (Hughes, 1998: 4).

The change that public administration has experienced since the 1980s was summarized under various headings such as post-bureaucratic management, supply-side management, managerialism, new public management (Hood, 1991) and entrepreneurial government (Osborne and Gaebler, 1992). However, the term new public management has widely been employed to refer to this new genre of public administration. Therefore, in this study, the term “new public management” will be used to refer to the new approach of public administration, despite the various terms that describe the same phenomenon. In addition, related approaches such as public choice and managerialism will be presented to provide background for the new public management approach. Later on, reinventing government and governance approaches will also be described to point out new forms of the public management approach.

2.2.2.1.1. Public Management Approach

The book of “Public Management: Public and Private Perspectives”, published in 1983 in the USA by James Perry and Kenneth Kraemer from California University, might be considered as the birth of the public management approach

(Üstüner, 2003: 336). According to them, basic tenets and aims of this approach can be summarized as follows:

- 1- To understand and develop the methods of tasks undertaken by public organizations
- 2- In doing this, to concentrate on the executive agent as the basic analysis instrument
- 3- To develop more efficient and effective tools and techniques in order to make public administration more perfect
- 4- Methodologically, to focus on comparative techniques between sectors and organizations (Üstüner, 2003: 366).

With the impact of the public management approach in the field of public administration, the discipline of public administration has experienced radical changes based on principles of economics. According to this, the structures and functions of the public organizations and institutions were redesigned to be compatible with the market-oriented discourse. In addition, traditional public administration based on normative tenets was altered by the instrumentalist techniques of business administration on a theoretical level. This meant the spread of business-like mechanisms such as specialization, and reporting and planning into the public sector. By adopting the activation principles of the private sector, the rational, efficient, effective public sector was aimed in order to fulfill the main objective of public management approach, based on technicist administrative agent deprived of social and political dimensions.

The public management approach has emerged with the claim of providing a new paradigm so as to deal with deficiencies of traditional public administration. However, business administration is used to being one of the basic components of public administration, along with politics and law. Due to this, it cannot be simply asserted that the public management approach, which brought techniques of business administration into public administration, is a new paradigm for the discipline of public administration. Furthermore, because of its specific emphasis on the public organizations and particularly executive branches of these organizations, this approach is too reductionist to overcome the problems of public administration

because of the fact that public administration cannot be reduced organizations alone (Üstüner, 2003: 368).

To sum up, the public management approach, which emerged with the claim of being a new paradigm in order to overcome deficiencies of public administration, could not provide a solution for the problems of traditional public administration, because it focused on instruments rather than the main problem. All these reasons caused a legitimacy problem for the public management approach at theoretical level and prompted a restructuring process which gave birth to the new public management approach (Üstüner, 2003: 370).

2.2.2.1.2. New Public Management

The new public management approach has emerged in order to overcome reductionist and limited features of the former public management approach. The term new public management was first used by OECD Reports and Christopher Hood from London University. In this context, the article “A Public Management for All Seasons” written by Hood in 1991 has crucial role. According to Hood, “new public management offers an all-purpose key to better provision of public services” linking with ‘mega-trends’ of administration namely;

- i) Attempts to slow down or reverse government growth in terms of overt public spending and staffing
- ii) The shift toward privatization and quasi-privatization and away from core government institutions, with renewed emphasis on subsidiarity in service provision
- iii) The development of automation, particularly in information technology, in the production and distribution of public services
- iv) The development of a more international agenda, increasingly focused on general issues of public management, policy design, decision styles and intergovernmental cooperation on top of the older tradition of individual country specialization in public administration (Hood, 1991:3).

Since it brought new values, techniques, and practices into the public sector and in particular in the domain of public services, the rise of the new public management approach meant radical changes in its application to the public sector

which might be characterized as adapting public administration and public service provisions to a changing world by focusing on management and performance with new methods of public service provision, staffing procedures, and an overall cut in the total size of civil service and public services. The changes resulting from the new public management approach might be listed as follows:

i) An explicit emphasis on the administration rather than politics and law: As mentioned before, public administration consists of politics, administration and law as a discipline. The dominating figure of the discipline has changed from time to time and space. With the impact of the new public management approach, the technical administrative sphere has become dominant compared to law and politics, which emphasize the public interest and social concerns in the public administration. As a result of this, legal-bureaucratic and political processes behind administration have been neglected by the governments. Parallel to these, legal rationality understanding has been replaced by managerial/economic rationality according to which legality of administrative functions lost its priority compared to the importance of concrete results that might be summarized as stressing outcomes and results rather than inputs and processes (Tan, 2003). In this process, administrative law, which used to be dominating figure in the field of public administration, particularly in continental Europe, has lost its appeal vis-à-vis commercial law that based on contractual relations rather than status relations (Ayman-Güler, 2005:19). Hence, the concept of the public service, which is generally characterized by administrative law, has been affected from this profoundly.

ii) Transformation of the public sector: Following Lane (1993: vii), public sector might be described as “a set of institutions that coordinate interests of different groups that ask in various ways for public activities of different kind”. The institutions of politics, government and bureaux characterize the public sector whereas various market institutions inhabit the private sector (Lane, 1993: viii). In this respect, the objectives and characteristics of two sectors differ in terms of activation principles, rules, and techniques. The motivation behind the public sector is to provide public interest while to maximize profit in the private sector, and therefore, the public sector is closely related with the domain of public services in

which production of public goods and services are fulfilled. Related to rise of the principles of the new public management and implementation of neo-liberal policies as well, the separation between public and private has become ambiguous due to direct application of private sector rules and techniques such as performance evaluation and administrative accountability into the public sector.

iii) Flexibility: In this period, the flexible provision of public services was underlined instead of previous bureaucratic, centralized, and rule-based provision methods through the privatization and contracting-out. In this regard, beneficiaries of the public services have become to be considered customers which in turn, altered the state/citizen relations. Especially, with the impact of post-Fordist production mode and post-bureaucratic organizations, the classical structure of public organizations and activation principles of these institutions have changed. According to this, new type of organizations has emerged in the realm of the public services called “independent regulatory agencies” and new staffing procedures have been applied into civil service such as norm cadre and contractual personnel. Furthermore, the total size of civil service has been decreased sharply.

iv) Less costly state: According to this, governments have started to cut down public expenditures that were used for the fulfillment of public services in order to provide less cost. In addition, privatization has also gained speed to create new sources for the budget and with the new method of public service delivery the prices of services has been determined and collected compatible with motive of maximizing profit rather than providing public interest. Moreover, public enterprises were transferred to the private sector having serious implications for the public services undertaken by these enterprises previously.

v) Stressing the importance of 3Es principle of administration: As a result of the principles of the new public management, efficiency, effectiveness, economy, in short “**3Es**” principle of public administration, has become main goal of public administration rather than tools of administrative process (Aksoy, 2003:558). According to 3Es principle, the private sector has considered as the most efficient, effective and economical instrument for the public service provision. Due to this, the techniques and rules of the private sector have been applied to the public sector in

order to overcome so-called inefficiency and unproductivity of the public sector. Hence, public organizations have started to act like private sector organization by focusing on outcomes or outputs rather than inputs. Performance evaluation has gained crucial role so as to measure success of organization and personnel. In this process, public organizations are concentrated on achievement of their goals instead of rules and regulations, in turn; rules and regulations have been flexibilized according to customers' demands.

vi) *Transformation of the concept of the public service:* New public management approach has intended to replace traditional public administration. As a result of this, the structure in which public services are located has changed completely. In line with the new public management approach, state provision of the public services has decreased whereas charging for them has increased. In addition, public services have been restructured towards privatization, decentralization to new agencies, fragmentation into distinct centers as a basis for allocating resources within state. Thus, it might be concluded that the content and methods of public service delivery by state have been diversified through the new public management which have risen in the period of neo-liberalism.

It is compulsory to note that the transition from administration to management in turn was accompanied by a changing political ideology, particularly, on the right that challenged the old consensus on social democracy and the welfare state. In this sense, there is a parallelism with the emergence of the new public management approach and the new right ideology. Although the new right ideology might be considered the cause of the emergence of the new public management approach, there is not a premise/result relation between them. On the contrary, they usually have gone hand in hand and developed together in many cases (Ayman-Güler, 2003: 100). In addition, various reasons might be considered for the rise of new public management approach, such as global changes in economic systems, and ideological alterations in the conceptualization of state/market relations. As mentioned before, in the period of neo-liberalism, due to the economic and fiscal crises of state, many reform packages have been implemented into the public sector in order to overcome the crisis by cutting down public expenditures and creating new sources for budget

instead of spending. Within this process, international institutions such as IMF, WB, WTO and OECD compelled governments to make reforms compatible with global changes. In such a condition, the basic principles of new public management have been considered as inevitable and indispensable necessities to adapt to international challenges. Moreover, serious assault on practices and institutions of traditional public administration, based on bureaucratic, highly centralized and rule-based structures, has triggered the replacement of traditional public administration by new public management. The prevalent discourse, which asserts bureaucracy and the center was the unique reason of unproductivity, inefficiency and indemocratic applications, has also given rise to this transition.

Furthermore, many theoretical approaches might be stated as the components of the new public management such as managerialism, new institutional economics, and public choice each of which sometimes conflicting aspects (Üstüner, 2003: 371). Although these theories and approaches have conflicting features, they have common purpose for providing shrinking of the public sector. Therefore, it might be concluded that all these theories and approaches which constitutes the theoretical framework of the new public management provides theoretical justification for the transformation of the public sector, as well as triggering the transformation process. In the scope of this study, the public choice theory and managerialism will be presented briefly so as to provide background information for the theoretical framework of the new public management. However, the theories related to economics, namely new institutional economics and transaction-cost economics, will be neglected because of their technical differences in terms of content of present study.

In summary, the new public management is a multi-dimensional approach composed of various theories and approaches such as public choice, managerialism, transaction-cost economics, and new institutional economics. For some scholars the change from traditional public administration to public management represents a paradigm shift (i.e. Hughes, 1998) whereas some critically reacts this (i.e. Lynn, 1998). In spite of existence of conflicting debates on whether it has provided a new paradigm for the discipline of public administration or not, it cannot be denied that it

has brought about salient alterations into the public sector aiming at alternative ways for the governments instead of traditional public administration. By claiming that organizations, instruments, methods and practices of previous approaches of public administration was inefficient, ineffective and unproductive it has proposed itself as unique prescription for the problems of the discipline of public administration which caused radical changes in the realm of public services. Furthermore, it has produced and renewed itself through the changes fulfilled by the neo-liberal policies via articulation with basic principles of market based discourses.

2.2.2.1.2.1. The Public Choice Theory: As Aucoin (1990) argued, the public choice constitutes basic components of the new public management consisting of various schools such as Austria School (Frederick Von Hayek), Chicago School (Milton Friedman), and Virginia School (James Buchanan and Gordon Tullock). Public choice theory is a comprehensive theory that interested in theory of state, political parties, democratic electoral process, voting behavior, state intervention to economy and bureaucracy. The main objective of this school might be summarized as to implement theories and methods of economics into politics. In this respect, the public choice is a political economy theory that aims at providing an alternative for market failure discourse of the Keynesian welfare state asserting governmental failure. Parallel to neo-liberal policies, public choice theory emphasizes the priority of free market economy and rejects the state intervention. Both of them favor the self-regulating economy with the claim of state intervention to the market and collectivism would distort the activation of economy. Similar to neo-liberalism, with governmental failure discourse public choice is critical towards public sector and favors private sector and market values. In order to prevent expansion of public sector and public services, public choice assigns critical role for market via minimal state and privatization.

Individualism is considered as the ontological premise for the public choice theory. As Muller argued, man is egoistic and rational so as to maximize his utility (Muller, 1976:395). Political actors and bureaucrats act according to their self-interests such as income, power, prestige and maximization of bureau rather than

public interest. That is, the main objective of a politician is to be re-elected and because of this politician pursue opportunist and populist policies that cause expansion of public expenditures and public services having distorting effects on private property and individuals' economic rights. Similarly, bureaucrats work for maximizing their bureaus and budgets, which in turn increases public expenditures. In addition, the public choice is negative towards democratic electoral system and voting right because of its potential for the expansion of public expenditures resulted from commitments of politicians to be re-elected. In this sense, public choice might be characterized by the loss of trust to politicians and bureaucrats as well as favor of free market economy and minimal state. According to them, due to the existence of self-seeking politicians and bureaucrats, it is inevitable to fail for the public sector. As a response to these drawbacks of public sector, the public choice proposes minimal state, reduction of bureaucracy, privatization of public services and withdrawing political and bureaucratic authorities.

In conclusion, the public choice theory has appeared as an alternative to welfare state based on market failure discourse. By asserting the governmental failure discourse, the public choice theory aimed at decreasing state intervention to the market. In this sense, the public choice considered market as an only way of efficiency, effectiveness and the best guarantee for individuals' right. Similar to neo-liberal policies, the free market, competitiveness, minimal state, decentralization and privatization were perceived superior vis-à-vis the public sector composed of self-seeking politicians and bureaucrats. These criticisms of politicians and bureaucrats lead to the conclusion that the public service will be characterized production of less than it is possible to produce with the given inputs (Walsh, 1995:17). Public choice theory, which was developed after the World War II, has become popular in 1970s via its arguments against state intervention. Therefore, it is generally accepted that public choice theory constitutes one of the theoretical backbones of neo-liberalism.

2.2.2.1.2.2. Managerialism: Managerialism constitutes other theoretical dimension of new public management besides the public choice theory. In contrast to the public choice's comprehensive interest area, managerialism concentrates on

public organizations and particularly executive branch of these organizations. Due to this, managerialism might be considered as a technical expertise that stress on the role of the managers of public organizations. As argued by Aucoin (1990:118), “the term “management” refers to private sector experience, and the main concern of it is the use of resources to achieve results in contrast to focus of “administration” on the adherence to formalized processes and procedures”. According to Aucoin, in this comparison public sector bureaucrats are perceived as “administrators” inferior to their private sector counterparts namely “managers” who manage their organizations. In this respect, managerialism can be summarized as an effort to create a professional managers community in public organizations who have large freedom to manage in order to adopt private sector rules and principles into the public sector to overcome so-called inefficiency and ineffectiveness of public sector. According to these, managers of public organizations, who has specialization on their specific issues, should have broad managerial autonomy and power in order to be free in choosing proper policies by not pursuing the way of formalized procedures. While doing this, managers must work according to the concrete outcomes and objectives rather than abstract rules and processes. Managerialism also proposes that, the performance of public employees must be evaluated in terms of pre-determined performance criteria so as to provide efficient, effective, economical and productive provision of public services.

Like new public management and public choice, managerialism is not more than application of private sector rules and techniques to public sector. However, focusing on public organizations only and particularly their managers, it is highly reductionist because of its indifference to political, economic and social dimensions of public administration. Furthermore, in contrast to public choice’s distrustfulness to bureaucrat, managerialism gives large freedom and trust to managers. In this respect, managerialism and the public choice have conflicting aspects, which implies an incoherency in the new public management approach at theoretical level (Üstüner, 2003:371).

2.2.2.1.3. Reinventing Government

The argument about the paradigm shift was taken up by the book of David Osborne and Ted Gaebler *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*, published in 1992 in USA and popularized in the phrase of “reinventing government”. They address a new form of approach they observe across the USA. For Osborne and Gaebler, traditional form of bureaucracy and public administration institutions is not qualified enough to overcome problems of public administration. Therefore, government institutions should be “re-invented” according to changing necessities of management process. By doing this, state should not be abolished totally, but should be redesigned compatible with market values. This time, the debate on the role of the state has not simply been about how its activities can be limited and controlled but also about the institutional character of the state. Through the reinventing government approach, it is argued that the state must not only be smaller but also different; it must become market-oriented, fired by the spirit of entrepreneurship (Walsh, 1995:3). Osborne and Gaebler proposed ten principles in order to fulfill this objective which might be summarized as follows (Painter, 1997: 50):

1- *Catalytic Government*: Governments should delegate their powers to agencies ensuring that something is done but not doing it directly (= “steering rather than rowing”).

2- *Community-Owned Government*: Governments should not engage in provision of services but they should enable private sector or voluntary organizations in which community can act like entrepreneur. That is to say, “empowering rather than serving” (= “enabling government”).

3- *Competitive Government*: In order to provide an efficient and customer-oriented public service, the provision of services and the institutions of governments should be exposed to the competition by the means of competitive tendering and market testing.(= “injection competition into service delivery”).

4- *Mission-Driven Government*: According to this, governments should focus on their goals rather than rules and regulations. (=“transforming rule-driven

organizations focusing on organizational purpose and underpinning values, i.e. a strategic orientation”).

5- Result-Oriented Government: Governments should be evaluated in terms of their performance in out-puts rather than their inputs through performance-measurement system (= “funding outcomes not inputs and rewarding success rather than failure and with appropriate performance indicators in place”).

6- Customer-Driven Government: Government institutions should consider citizens as the customer of their services. (= meeting the needs of customer not the bureaucracy”).

7- Enterprising Government: Governments should not only spend money for services, but they should also earn revenues from the provision of services aiming at profit maximization. (= “earning rather than just spending”).

8- Anticipatory Government: Governments should foresee probable situations in order to prevent waste and inefficiency (=“prevention rather than cure”).

9- Decentralized Government: Governments should decentralize their responsibilities whenever possible so as to provide an environment for the public participation and democracy. (= “from hierarchy to participative teamwork”).

10- Market-Oriented Government: Government institutions should perform through the market values, which are conceived more efficient, effective and economical way of public service provision. (= “leveraging change through the market”).

Briefly, reinventing government approach can be considered as an effort to construct a state that works efficiently, effectively and economically which summarized as “entrepreneurial government” by elimination of bankrupted bureaucracy, holding administrators accountable for measurable results, emphasizing customer satisfaction, empowering managers, to make their own decisions, contracting out whenever possible with the private sector for public service delivery. According to them, government should be responsive enough to the changing conditions of market and consumers’ demands. In this respect, as stated by Üstüner (2003:374), “reinventing government approach is not reinvention of anything”. Reinvention, in this sense, means “to reduce government to its ‘inescapable core’”

(Painter, 1997:52). Therefore, despite the slight ruptures, it can be considered as a continuation of new public management approach, and supplementary of new right ideology and neo-liberalism as well due to its stress on market-oriented, customer focused, small but effective state discourse.

2.2.2.1.4. Governance

The term governance has become popular beginning from 1990s having various conceptualizations in terms of different perspectives of sociology, political science, economics and public administration consolidating on neo-liberalism and governance relation. Due to these diverse conceptualizations of the term by different perspectives, it is difficult to make a definition of the governance. However, it might be argued that governance approach has brought about a new type of state which involves “co-steering, co-managing, co-regulating, co-producing and co-allocating” (Kooiman, 1993: 1-2). In this respect, in contrast to earlier arguments of neo-liberalism based on state/market opposition, governance tried to create a reconciliation based on state, market and civil society partnerships that brought about new aspects to state/market and state/citizen relations.

In this part of the study, a brief presentation of the governance approach will be made, since the present study considers governance as a new approach of the discipline of public administration particularly new form of the new public management approach. Rhodes (2000:55) has classified various usages of the term governance under the seven sub-topics in terms of public administration as follow:

i) Corporate Governance “refers to the way in which business corporations are directed and controlled”. According to this openness of information, integrity and accountability of public sector was aimed by allocation of responsibilities and roles (Rhodes, 2000: 56).

ii) Good Governance focuses on the new tendency developed by World Bank shaping its lending policy towards third world countries and good governance has been imposed to Third World Countries during 1990s as an instrument to solve the

administration problem of them. In this context, privatization, reducing over-staffing, decentralization and participation of non-governmental organizations have been proposed by WB to achieve efficiency in public services. For Rhodes (2000:57), this symbolizes “marriage of new public management and good governance”.

iii) International Independence, parallel to “hollowing-out thesis” focuses on decrease of state authority as a result of internationalization of production and financial transactions, international organizations, international law and hegemonic power and power blocs (2000: 57). In this respect, state should overcome interdependence problem by governance.

iv) Socio-cybernetic System refers to transformation of the political system according to which central government can no longer be seen as a single sovereign authority because there is a great variety of actors specific to each policy area. Governance is result of these inter-active social-political forms of governing (2000:58).

v) The New Political Economy re-examines the government of economy and interrelationships between civil society, state and the market. As mentioned by Jessop, governance in this sense refers to complex dialectical interrelationships between structure, agency and strategy (Rhodes, 2000 quoted in Jessop, 1990).

vi) Networks related with management of networks in which different actors took part in the provision of public services (Rhodes, 2000: 60).

vii) The New Public Management is the most relevant uses of governance to this thesis since governance is considered as a new form of the new public management approach in the scope of the study. According to Rhodes, new public management has two meanings: corporate management and marketization. Corporate management refers to introduction of private sector management methods to public sector through performance measurement, managing by results, value-for-money, and closeness to customer. Marketization, on the other hand, refers to introducing incentive structures into public service provision through contracting-out, quasi-markets and customer choice. In this respect, there is a parallelism between the basic premises of governance and the new public management and reinventing government approaches because “steering” is synonyms for governance which distinguishes

between policy decisions (steering) and service delivery (rowing) similarly argument of less government (less rowing) more governance (more steering) (2000: 56).

To recapitulate, beginning from early 1980s, there occurred number of changes all over the world under the influence of neo-liberal policies. As a result of neo-liberal policies, the role and structure of state has experienced a re-definition process, which put into critical questioning existing institutions and concepts. Within this process, market relations have become more dominating and the role and function of state in economic relations has decreased, because state intervention into economy and former Keynesian welfare practice has been accused of being main reason of economic crises. Moreover, the private sector has been favored vis-à-vis the public sector due to the fact that the public sector has been perceived as being inefficient, ineffective and unproductive. As a response to this trend, a total transformation process has been witnessed in the public sector. This transformation brought about discourses of erosion of public/private distinction, enabling voluntary and community, steering rather than rowing, governance rather than government. Parallel to this, the discipline of public administration has been affected by this transformation as well both on theoretical and practical dimensions. According to this, traditional public administration based on bureaucratic, centralized, formalized structures has been forsaken by new public management approach, based on more flexible, business-like and market-oriented structures. The new public management approach and the related approaches has been used a theoretical legitimization instrument of the inevitability of practical changes that emerged in public sector after the 1980s. In addition, by asserting same premises with the neo-liberalism, the theories of new public management, public choice, managerialism, reinventing government and governance approaches have played crucial role in the spread of minimal state, competitiveness, free market and privatization discourses. All these changes had profound influences on the concept of public service. Within this process, public services as being main indicator of the functions of state and a public administration practices have experienced radical transformation.

The main goal of this chapter was to draw a framework for the subsequent chapters by presenting the context of change. The context of change is the changing

economic and social conditions through neo-liberalism as well as reinforce of the ideas of public choice, new public management according to which the “reforms” have been initiated. This context might also be observed as in the form of shrinking of the public sector, transition from public administration to public management, successive developments such as privatization, deregulation, decentralization, liberalization of finance and marketization of the public services by which market values, competition, incursion of private sector practices into public sector became more dominating in line with neo-liberalism. Increased pressure of market forces have changed the way that public sector operates. Thus, private sector values and practices have been adopted by the domain of the public services. In this regard, public service structures have changed in terms of how services should be produced and delivered. As a result, a number of traditional assumptions about the public sector, the discipline of public administration and the domain of the public services and their relationships have been challenged. All these themes will be elaborated on in terms of their transformative impacts on the concept of public service within the subsequent chapters. The following chapter is going to be devoted to understand what public service is so as to arrive at satisfactory conceptualization of the concept before analyzing its transformation.

CHAPTER 3

PUBLIC SERVICE

Parallel to the changes in the role and size of state, resulting from neo-liberal policies, public administration practices have been transformed throughout last three decades through structural and institutional changes such as privatization of public assets and services, contracting out and a number of ‘reforms’ subsumed under the new public management approach. These changes have triggered a transformation in the domain of public services as well since the field of public administration constitutes structural background of the realm of the public services. As a result of this, the content and meaning of the concept of the public service⁷ and the manner of its performance have changed, according to which a new market-based public service provision is intended. This chapter seeks to examine the concept of public service itself in order to arrive at a satisfactory conceptualization before analysis of its transformation. By doing this, emergence and the meaning of the concept, ontological premises of the concept of public service, inherent features of public services, and basic approaches to the public services will be discussed. Following chapter will be devoted to understand the transformation of the public services, its reflections on the public administration practices, dynamics of this transformation, its relation with neo-liberalism and other successive developments by focusing on Turkish public sector.

⁷ In the scope of this study the term “public service” is going to be used to refer to conceptual dimension of the subject whereas the term “public services” will be employed to refer to practical aspect.

3.1. What is Public Service?

As explained within the previous chapter, beginning from the mid-1970s with the impact of neo-liberal policies, a trend to find a new approach for the public sector management throughout the world such as new public management, “reinventing government” and “governance”, which have introduced new principles to the management of the public sector, has emerged. The common feature of these approaches is the introduction of market mechanisms to the running of public services, which has “intended to change the basis upon which public services operate” (Walsh, 1995: xi). Parallel to these, the role and structure of state, the discipline of public administration have experienced a transformation, which in turn prompted a transformation in the public sector and the concept of public service. The debates over the role and size of state and impacts of new public management, public choice, managerialism and reinventing government approaches in the field of public administration have raised larger questions about the concept of the public service, because this transformation has tried to legitimize itself by using a hegemonic discourse based on provision of more efficient, effective, economical and productive public services. In this sense, the concept of public service has become a form of ideological mystification that should be analyzed in terms of its weight within these debates. Furthermore, the concept of the public service has central role in the field of administrative law that is; lots of issues are defined and explained with specific reference to the concept of public service. The concept is also important in terms of political science and public administration due to the fact that it is the main indicator and the most salient phenomenon of the functions of the state and public administration practices. Despite its importance and dominating role, the concept of public service has been experiencing a definitional problem (Derbil, 1950:28, Çırakman, 1976:75, Tan, 1992:307, Yaşar, 2003:442). Therefore, it is a crucial task to analyze what public service is, how it might be defined, and what are the inherent features of public services that draw the boundaries between public services and activities of private initiatives.

The concept of public service has become a popular term throughout 1980s especially with the debates on privatization and it also has become a critical issue with the transformation of the role of state and the public sector. As mentioned before, the concept of public service is used as an object of law, in particular, administrative law with specific reference to its legal repercussions and interpretations. The concept of public service in essence, is an interdisciplinary subject that has close relations with economics, politics, public administration, public finance and even sociology. Although the concept was firstly used by Duguit (Derbil, 1950:28), (in the beginning of 1900s) from sociological perspective, in time, other dimensions have generally been neglected and the legal dimension has become more dominating. The scholars from political science and public administration have taken into consideration the subject in an indirect way, particularly on the axis of transformation of state and public administration practices.

Each scholar from different perspectives of social science has focused on one dimension of the concept in terms of their own interest, for example, those from public finance have considered the concept as public goods, administrative law has perceived the topic as a taken-for-granted assumption which is an explanatory instrument of the scope of the administrative law and political scientists have seen as the functions or activities of state. Moreover, most of them failed to comprehend multi-dimensional and interdisciplinary character of the concept. In addition to this negligence, there is an ambiguity in the conceptualization of the concept. There is not a unique definition of the concept that everyone agrees on, neither in general literature nor in the legal context. Although some of the scholars argue that “there is not a problem to define the concept because it did not experience any transformation and it has a definite content that does not change over time”, (Uler, 1998:254), most of the scholars argued that “it is difficult to make general definition of the concept of public service” (Yaşar, 2003:442). There also exist scholars who underlined the necessity of “making alternative, critical and realistic conceptualization of the concept based on dialogic and discursive ground” but did not arrive at such a conceptualization (i.e.Ozansoy, 1997 and 2000). Parallel to academic divergence, Turkish Constitution too employs the concept to refer to various meanings,

sometimes to mean functions or activities of state (= functional meaning i.e. 128th and 47th articles of constitution) and sometimes public institutions (= organic meaning i.e. 70th article of constitution) (Yaşar, 2003:442).

The definitions and conceptualizations have also differed according to time and space. Different systems of law have employed different wording to refer to same phenomenon, for example Anglo-Saxons called public utility, on the other hand Continental Europe preferred the term public service. Furthermore, as a result of changes that occurred in the state/market and state/society relations the content and meaning of the public service has evolved. Particularly, with the impact of new public management approach, public administration practices and the scope of public sector have experienced profound transformation. In this regard, public service based on administrative concepts differed from one based on management that will be analyzed within the next chapter. Different countries at different time periods had different conceptualizations of the public service according to their state types and political/economic systems. Hence, it might be concluded that the concept of public service has been experiencing a definitional problem. In the literature, the problem in defining and conceptualizing the concept is, resulting from its interdisciplinary, multi-dimensional and transforming character, called as “identity crisis” (Tan, 1991: 233). However, the fact that the concept of public service is going through a definitional crisis does not constitute an obstacle for the necessity of providing a definition. On the contrary, this makes its conceptualization all the more vital. In this regard, some scholars argued that the ambiguity of the concept might be overcome by the pure economic perspective, particularly with the help of criterion based on production of public good. The new definition must be achieved by the criteria of the rules of classical economy because what is happening here is any significant way different than economic production process in economics sense. For this view, current legal framework particularly administrative law is not flexible enough to respond the rapid technological and social transformation, which has emerged in post-1980s, particularly international capital flows, and the investment of multinational firms. Public services must be suitable to the transformation of state and the content of the concept must be changed completely (Savaş, 1998:90). The roots of

this view can be found in the theory of constitutional economics. According to theory of constitutional economics, the constitution must be reformed through the rules of market economy in order to restrict public expenditures and protect individuals' right. Similarly, the concept of public service must be revised according to the rules of economics⁸. In this regard, this view has close relations with the new right ideology and the neo-liberal policies. For Savaş (1998:92), who is a famous representative of the theory of constitutional economics in Turkey, the welfare state represents unusual expansion of the public services. This expansion caused enormous public expenditures and increased taxes; therefore, state should abandon its socio-economic activities and return its essential mission consisted of only maintenance of law and order. According to Savaş (1998:92), privatization of the public services, therefore, provides public interest because by this way needless load on the state are prevented via overcoming inefficiency and unproductivity in the provision of public services.

While proponents of privatization assert the shrinking of the public services, the statist defense of public services, pioneered by Uler (1998), underlined the necessity of expansive level of public services. These arguments were established on the basis of nation state. According to this, all the activities of state are public service. Parallel to this view, in the literature public service is perceived as the reason of the existence of state and the only mission of the state was seen as the satisfaction of needs of the citizens. Therefore, there is no function of state except public services. From this perspective, public service is the product of nation state and therefore it has become the target of assault, the debate about transformation of the concept of public service is an illusion that aims to minimalise the nation state (Uler, 1998:253).

⁸ See Buchanan, who is one of the pioneers of the public choice theory , 1997 for the details of constitutional economics

To reiterate, these two theses, which were emerged as proponents versus opponents of the public services, located themselves contrary to the other one and this caused serious controversial debates on the concept of public service. All these debates have existed on the axis of ways of public service provision especially on the theme of privatization.

As stated by Ozansoy (1997:87), these two main controversial approaches, which used a terminology established on the deficiencies of the other, had a tendency to perceive the concept of public service as an external thing deprived of political and social dimensions and these debates failed to analyze the issue on the state-society relations because discussions were reduced to the theme of the liquidation of the nation state. Thus, the concept of public service was considered technical legal instrument rather than being multi-dimensional, interdisciplinary concept.

In spite of this sharp polarization, almost every scholar agreed on the fact that the concept of public service is the basic criterion in the field of administrative law but it is difficult to define it (Gözler, 2003:218) because of its ambiguous and transforming environment. Despite this ambiguity, some of the scholars, who admit the interdisciplinary character of the public service; have tried to give a precise definition of what public service is. One attempt to such kind is Ulusoy, who is a scholar in the field of administrative law. According to Ulusoy (2004:13);

public service is a function that labeled as public service by the parliament due to the fact that this function could not be fulfilled by private sector properly. In addition, public services are abided by privileges and obligations different from activities of private initiatives (=specific legal regime). Because of its role in providing public interest, public authorities have supervision and responsibility even provided by the private sector throughout provision process of public services”⁹.

Although this definition seems to be very comprehensive it fails in some aspects such as it does not have any reference to the public characteristics of the public services and it considers the public services that emerge only in the condition of market failure. It also perceives the being public service as a label that was put by the parliament. Another shortcoming of making definition of the public service is to

⁹ See also Gözler,2003 for a similar definition

rank features of public services and making technical formulations that are thought to be immune to changing situations (i.e. Gözler, 2003: 218-221). However, “making definition does not mean developing formulation that never changes through the time and space. On the contrary, every definition and conceptualization has a historic dimension shaped by economic and social relations of the state” (Karahanoğulları, 2002:6). Briefly, every conceptualization is value-laden that is formed according to ideological preference of the state. Therefore, the conceptualization of the public service cannot be perceived freed from the social, economic and ideological conditions.

As mentioned before, the realm of the public services is closely related with economy, political science, public finance, sociology as well as law. Therefore, public service should be analyzed on the basis of state/market and state/society relations by taking into consideration current type of state because the content and meaning of the public service differ according to role of state in socio-economic activities. More specifically, intensity of the state intervention to market has crucial role in the determination of the meaning and content of public services. In this respect, public service might be considered as an instrument of the functions of state in the socio-economic activities. As Hughes (1998:84) argued; “an instrument of government is the way it acts, the mechanism used when state action is justified in some way”. According to Hughes (1998), state intervention can occur through four available economic instruments as follows:

i) Provision: “where the government provides goods or services through the government budget” (Hughes, 1998:84) funded by taxation rather than user charges; “through the budget government tries to determine the level of public activity in the economy, a reasonable distribution of income and wealth, and to provide some control over the overall level of economic activity”. “These are usually described as policies for allocation, distribution and stabilization” (1998: 85).

Allocation “policy is concerned with the relative size of the public and private sectors. In other words, the budget sets out both the overall level of state activity and specifies which activities are to be carried out publicly rather than privately”. (1998:85).

Distribution policy represents the attempts of the state to redress the inequalities in wealth and income between citizens in some degree. “The major part of distribution policy is the provision of social welfare, including transfer payments to certain classes of citizens, but all other budgetary decisions have some distributional consequences” (1998:86).

Stabilization policy is an instrument by which the state aims at improving economy through budgetary policy. “All government spending and taxing decisions have marked effects on the private sector as well, so by varying these policies and their aggregate levels, an attempt can be made indirectly to influence the entire economy” (1998:86).

ii) Subsidy: which is “a sub-category of provision and is where the government assists someone in the private economy to provide government desired goods or services” (1998:84);

iii) Production: “where governments produce goods and services for sale in the market “(1998:84), and

iv) Regulation: “which involves using the coercive powers of the state to allow or prohibit certain activities in the private economy” (1998:84).

The use of these instruments varies over time and according to the particular government function (Hughes, 1998:84). The public service is therefore main indicator of the state intervention to economy as a “government instrument”, in this respect, the concept of the public service has internal relations with the size and role of state. In this context, Karahanoğulları’s definition should be stated. According to Karahanoğulları (2002:5), who is an academician from administrative law circle, “public service is a production activity of state which attempts to produce goods and services in order to satisfy collective needs of citizens”. This production activity aiming at satisfying collective needs should be immune to activation principles of market because, public service is an instrument of state that aims at redistribute social surplus in order to lessen social inequalities. For Karahanoğulları (2002:227), the realm of the public services, therefore, does not pursue the way of market principles according to which profit maximization is more dominating rather than social concerns. Contrary to prevalent discourse, such kind of view does not perceive

the public service as an inevitable consequence of market failure, according to which state intervention occurs in certain circumstances in which private sector cannot function properly. From market failure perspective, public services are exceptional and temporary functions of state so as to compensate for the shortcomings of the market. However, the decision about public services is a consequence of active and deliberate preference of state. According to Karahanoğulları (2003:4) to decide to whether public or private realm should be more dominating in the domain of the public service is named as “choice principle”. According to choice principle, decisions about public services are contingent upon the ideological preference of the state (Şaylan, 2003a:579-580). In this study, Karahanoğulları’s conceptualization will be adopted because of its reference to state/society and state/market relations since the aim is to understand the transformation of the concept of public service within the context of neo-liberalism and successive developments in the field of public administration. It is clear that theories of market failure and governmental failure seem to be important aspects that should be taken into consideration in terms of conceptualization of the public service. Therefore, these theories will be explained before going into details of the concept.

3.1.1. Market Failure

According to argument about market failure, there are particular sets of circumstances in which market fails to produce optimum mix of goods and services and there will be need for state intervention so as to correct the market failure or introduce policies that would compensate its effects (Walsh, 1995:6). In such a situation; planning, collective decisions and public provision will be more effective in responding certain social purposes than process of individual initiatives.

Factors that bring about the market failure might be outlined as follows; (Hughes, 1998:97-101), (Walsh, 1995: 6-12) and (Inman, 2001:648-650).

3.1.1.1. Public Goods

Private goods are available by whoever paid for them and property becomes theirs by the process of exchange then no one else can use it unless the owner gives permission. On the other hand, “public goods are quite different from private goods as they benefit all users whether or not they have paid the price. They are non-excludable, that is, if provided to one, are available to all” (Hughes, 1998: 97). The basic characteristic of public goods is that “increased consumption by member of society in no way diminishes the consumptions of the other members of society”. Such commodities are called pure public goods and include as examples national defense, a lighthouse in a harbor, or basic medical research (Inman, 2001:653). The private market will not provide adequately for public goods, “which are inherently available to all and for which one person’s use does not preclude their availability to another” (Walsh, 1995:7). However, the dividing line between public and private goods is not precise. The level of public goods is closely related to the debate on size of the state. That is, except for some activities according to which there was some role for government even during the time of laissez-faire economics such as national defense, the intensity of public goods and services differs in various types of state.

3.1.1.2. Merit Goods

Merit goods are “socially desirable goods” (Hughes,1998:98) which are “beneficial for society that all partake adequately in, but which individuals are likely to under use”. In this sense, merit goods might be considered as special case of public goods. “Education and health are examples of merit goods, to which private market may restrict access of everyone” (Walsh, 1995:10). Due to the fact that market may not provide optimally merit goods, government action is thought “to produce and distribute merit goods in a way that ensures that all have appropriate levels of access to them”. There are also de-merit goods such as drugs and alcohol

in order to limit accessing to them. “Most countries have an uneasy mix of private and public provision of these merit goods” without having consensus over the public-private continuum (Hughes, 1998:98). The need for the state provision of merit goods has also arisen because people lack information that will enable them to make effective decisions (Walsh, 1995:10).

3.1.1.3. Externalities

The private sector sells many commodities that affect people other than the purchaser because social costs and benefits extend beyond the purchaser’s private costs and benefits and so are external to market prices (Bailey, 1995:32). “When there are costs to society that are not taken into account, negative” externalities occur whereas “there are benefits that are not taken into account”, positive externalities emerge. In such situations, government action can ensure that all the costs and benefits that are involved in the production of goods and services are taken into account. The state is considered to internalize externalities with the help of its wider boundaries (Walsh, 1995:9-10).

3.1.1.4. Information Asymmetry

The case for imperfect information is considered as an example of market failure and government action is finally justified on the basis of information asymmetry between producers and users of particular goods and services. Particularly, if the seller knows more about the commodity than the buyer, market transactions will be characterized by incomplete information (Inman, 2001:659). In these circumstances the state can act to regulate information imbalances in the market by reducing the incentive for the producer to over-supply or the user to under-demand.

3.1.1.5. Natural Monopoly

“There are some goods and services which are characterized by declining marginal costs, when supplied to one customer it becomes cheaper to provide to the next” (Hughes, 1998:99). Market is argued to fail when there are “increasing returns to scale where there are continually decreasing unit costs as the scale of production increases”. This is “particularly likely when large capital investment is necessary for the full development of a service”, as in the case of water, gas or electricity. In these conditions, “monopolies tend to emerge which can hold down production and set prices above costs, and so increase profits” (Walsh, 1995: 8). It is argued that because of the lack of competition natural monopolies causes the inefficiency. Therefore, in many countries these industries are in the public ownership. The alternative to public ownership and control is such services are privately owned but government regulated. In other words, state involvement does not only mean direct government provision but also indirect regulation over them. The existence of natural monopoly has been used as a rationale for government involvement or even ownership. However, there is a trend to privatization of such services with some form of government regulation attached.

As Hughes (1998:101) argued, the theory of market failure can provide some signposts to government action, but it does not provide a guide that shows what government should or should not do. These various economic arguments for state action do not imply the government should actually be a producer of goods or services, or that it should organize itself in any particular way of if it produces services. Different countries have adopted very different models of involving different combination of planning, regulation and market. “There is an obvious choice between regulatory and subsidy-based approaches and direct government production. There are also a multitude ways in which regulation, subsidy or provision can be organized”. “The changes in public sector management in the 1980s and 1990s have been characterized to reduce responsibility of state for the direct provision of services and to move towards enabling role” (Walsh, 1995:12).

The theory of market failure had been prevalent and influential discourse to explain emergence of public services and their reasons but it cannot provide general key for the analysis of public services. However, it cannot be denied that the theory of market failure is traditionally considered as the justification instrument of state action as corrective to market failure and the reason of expansion of the realm of public services. This traditional justification of public and collective action has recently been criticized by the liberal theorists, in particular public choice, making an alternative theory of government failure.

3.1.2. The Failure of State

Public choice theorists such as Buchanan & Tullock (1962) and Muller (1979) argue that the state is subject to failures just as the market. According to them, in the market, “the system of prices and the exchange process allow individuals to make effective choices”, which determine level of production in most proper way. Therefore, “various proposals, from charging for services, to vouchers to tax credits, have been proposed to enable market mechanisms to operate within the state”. Through this argument, it is aimed that state activity is needed but if it incorporates with market principles in order to be effective (Walsh, 1995:16).

For the public choice theorists, the basic accusation against the public sector is it is wasteful because being rational individuals politicians and bureaucrats pursue their own interests in the most efficient way possible instead of public interest, even the result is social inefficiency. Therefore, the public sector will be subject to inherent failures. “There are three basic sources of failure in government organizations identified by public choice theorists” (Walsh, 1995:17). First, politicians pursue their own interests, which sometimes conflict and pressured by special interests groups, instead of providing outputs of public sector that reflects the best interests of society. Second, bureaucracy does not carry out the wishes of politicians and they tend to expand the production of public services beyond the socially optimum level because they are rational, self-interested, utility maximizers

(Niskanen, 1971). Third, like politicians bureaucrats acts inefficiently. They also argue that government cannot be efficient, effective and productive because of the lack of competition. In conclusion, public services will be wasteful because it is in the interests of public servants not to work harder than they have to and because they are able to act without effective supervision (Walsh, 1995:17). Although the arguments of public choice have become popular and prevalent discourse, as Self (1993) mentioned there is little evidence to support them because most of the arguments are dependent upon the initial assumptions. Nevertheless, public choice theories have been influential in the reorganization of public services and they constituted the theory of government failure.

The theory of governmental failure basically argue that “the inherent characteristics of demand and supply for government services will lead to inefficiency” because public sector will cause the over-supply of publicly produced goods. According to them, in public sector there is difficulty in defining and measuring output and there are particular problems in the evaluation of quality. The supply of public sector goods has monopoly so that it is not contestable. In addition, the production technology is uncertain, therefore, inputs and outputs cannot easily been specified (Walsh, 1995:23-25).

To sum up, both theories of market failure and governmental failure are interested in explanation of the domain of the public services. In some cases, the market failure can be an instrument to explain state intervention and active role in the provision of the public services, and the governmental failure can provide explanations for the shrinking of the realm of public services, but the ontological premises of public services cannot be explained by the theories of market failure or governmental failure only. As stated before, the dividing line between private and public sector in the domain of the public services are contingent upon ideological preference of state rather than being inevitable consequences of the theories of market failure or governmental failure.

3.2. Constitution of the Public Services

As stated before, the decision about the size and characteristics of the public services is named as choice principle, as a result of which the foundation of public services is considered dependent on the ideological preference of state. According to choice principle, the role and size of public and private sectors in the domain of public services are determined in compliance with the choice of state. Another aspect that should be taken into consideration in terms of constitution of the public services is the share of authority between legislative, judiciary and executive branches of state. In fact, the main problem about share of power occurs between legislation and execution. However, with the debates of virtual public services and constitutional public services judiciary has involved to this problem. In addition to this, there occurred a share of authority between local government and central government. Furthermore, the constitution itself has involved the foundation process of public services. Thus, the problem of constitution has become more and more complex because executive and judiciary branches of state, local governments and constitution have authority in the foundation of public services as well as legislation (Karahanoğulları, 2002:254-260).

First of all, setting up of a public service requires an official decision of the state. It also requires establishment of a public organization and public employees in order to fulfill production of goods and services to satisfy common needs. In terms of legal perspective, there cannot be public services except for official will of state that embodied as law. According to this, private initiatives cannot constitute any public service. The foundation of public services necessitates will of state that aims to undertake production or provision of any public service. As a result of this, any production or provision activity that aims to satisfy collective needs become a public service, then this activity becomes a part of the domain of public services and citizens gain right to demand. However, this cannot always occur after the explicit declaration of state. In some cases, this occurs implicitly without establishment of any public institution or explicit will of state to undertake this activity. Therefore, it might be concluded that although parliamentary has basic and primary authority in

the enactment and organization of the public services, various signs designates the existence of public services except for official decision of state as in the case of constitutional and virtual public services. In addition, despite the existence of debates whether it is possible or not, executive branch of state can establish public services with the governmental decrees with the strength of law.¹⁰

3.2.1. Constitutional Public Services

Despite the general authority of legislation in the constitution of public services, the Constitutional norms can compel legislator to deem some activities as public service (Ulusoy, 2004:23). In this regard, the emergence of some constitutional public services is possible as a public service category. Like other conceptualizations over public service, the term “constitutional public services” has originated from French law. After a decision of France Constitution Council some of the public services are considered product of constitutional ethos (Karahanoğulları, 2002, 261). According to this, constitutional public services cannot be privatized because such kind of public services cannot be fulfilled by the private sector properly due to their values in terms of constitutional ethos and principles. Although, it is ambiguous to ascertain in what is the boundary that determines what the content of constitutional ethos is, it is inevitable to admit the existence of the category of constitutional public service because *raison d’être* of some of the public services can only be explained by the constitutional ethos as a result of social role of state. The existence of some public services has intimate relations with the social rights determined by constitution such as education and health. Furthermore, it is argued that if any activity was considered as the function of state by the constitution, state should establish public service in order to fulfill these functions¹¹. In sum, the constitution might label some activities as public service; therefore, the constitution has power in the enactment of public services.

¹⁰ See Karahanoğulları , 1997 for the debates on decree with the strength of a law

¹¹ Örüçü, 1970 argue that state should enact public services that respond the social rights and obligations mentioned in the constitution

3.2.2. Virtual Public Services

Virtual public service understanding is originated from French Law as well as constitutional public service understanding. According to this, any activity of private sector that was not labeled as public service by legislation or execution might be considered as “probable public service” if it is fulfilled in the public domain with the purpose of public interest. Any activity of private sector that has these features is deemed virtual public services by administrative and constitutional courts in the judicial process (Yaşar, 2003:444). Thus, judiciary branch of state has involved in the enactment of public services as well as legislative and executive branches. The roots of this understanding can be found in the objectivist approach to public service because virtual public service understanding perceives the nature of public service independent to will of legislation. Like constitutional public services, the virtual public service understanding has been criticized in the literature because of its negligence of the role of state in the foundation of public service. It is also perceived as a threat for the private initiatives because the virtual public service understanding imposes public control and strict rules on the activities of the private sector (Gözler, 2003:332).

In the literature, it is also argued that the only authority in the constitution of public services should belong to legislation because the foundation of any public service can hinder some of the basic rights of individuals such as enterprise and property rights. For this point of view, in modern democratic societies, the basic decisions concerning the public have to be made by legislation, which is constituted by the representatives elected by the populace. In this regard, public services have critical implications for the masses particularly, in terms of budget and taxation policies. Therefore, the authority in the enactment of the public services should not be broadened including execution and judiciary (Ulusoy, 2004: 26).

3.2.3. The Authority of Local Government in the Establishment of Public Services

In Turkey, local governments have power to enact local public services without being authorized by the legislature¹². These local services should not be considered local part of national public services. These are the peculiar services that emanated from the nature of local government and therefore, the scope of the local public services are limited to the local space (Karahanoğulları, 2001). However, with the recent transformation in the domain of public services, local governments have had more and bigger role in the provision of public services.

In the literature, it is argued that international agreements can also prompt the enactment of new public services (Gözler, 2003:323)¹³.

3.3. The Historical Evolution of the Concept of Public Service

The necessity for satisfying collective needs by large public organizations instead of individual initiatives is not peculiar to contemporary societies. In ancient times, there were activities of governors that aimed at satisfying collective needs rather than private interest, although the concept of public service was not employed. However, this activity, which aims at satisfying common needs, has gained its current meaning as public service recently (Karahanoğulları, 2002:84). The most evident influence on the theoretical and practical roots of public services is the effects of Greco-Roman law system based on public/private law separation. However, the influence of eastern inheritance cannot be denied (Karahanoğulları, 2002:85 quoted in Valette, 2000). For instance, it is possible to see early forms of Babylon's public service practices in the "Laws of Hammurabi" (B.C.1728-1686), in Mesopotamia. In Babylon, the property of land belongs to king and king gives

¹² However this can be contrary to the strict principle of legality. See Karahanoğulları, 2001 for the debate on strict principle of legality and democratic principle of the local autonomy

¹³ For Gözler (2003), according to Chicago Contract, signed in 1941, states have to establish public services about airway

prerogatives as a comeback of some services such as collecting of tax, providing justice and some military functions. In the Laws of Hammurabi, the obligations or the privileges of the holder were arranged which can be considered early forms of public service.

With the beginning of the Middle Ages, the signs of concrete public services had emerged as a result of “*utilitas publica*”, which is the law of public affairs, originated from Roman law. The phrase of the public service was used in 16th century explicitly (2002:86).

On the other hand, the contribution of Romans is the most evident one by making separation between public (*jus publicum*) and private law (*jus privatum*). By the time, “*jus publicum*” had been employed to refer to law of political sphere, thus, public law was conceived as the law of public interest. However, the idea of public interest lost its importance during the Middle Age then, the concept of public interest was replaced by the concept of “common benefit” with the impact of Christianity. In this period, the content of common benefit was particularly determined according to sovereign’s demands by focusing on religious functions. Afterwards, the concept of general interest, which constitutes the basis of the concept of public service, had replaced all these concepts. However, throughout the period of feudalism there has not been the understanding of general interest that differs from private interest. With the crisis of feudalism and emergence of modern states, public services had entered a new process in which it gained its contemporary meaning. In 15th century, after the crisis of feudalism economic relations became more complex according to which capitalist accumulation increased all over the world. With these new types of economic relations, a new type of state, based on centralization, emerged which has different functions such as taxation, bureaucracy and the armed forces. As a result of rise of centralization, particularly after the French revolution, common services, started to be fulfilled on behalf of kingdom rather than individuality of king (Karahanoğulları, 2002:87). Hence, provision of public services had become centralized and gained institutional structure. A tradition based on providing equal levels of public services in all part of country by a centralized state apparatus, serving general interest, has been established (Guyomarch, 1999:184).

The separation between state, which represents common interests, and private realm, which represents individuals' interests, had been another dominating factor on the public services. After this separation, state was begun to be perceived external to society which represents private interest. For this point of view, state and society are contradictory to each other. In this context, Hegel argued that the only way to solve the conflict between private and public interest was state which represents universal wisdom. Therefore, the public interest in Hegelian meaning was perceived as equal to state in particular bureaucracy apparatus of state. State was conceived equal to public interest and only provider of public services.

3.3.1. French Experience

The concept of public service is used as an object of law, in particular, administrative law. As a result, since its emergence the discussions about the public service has been conducted within legal categories and legal academic disciplines which effectively limit the debate as a technical subject deprived of its social dimension. In its legal meaning, the place of origin of the phrase “public service” is France (Karahanoğulları, 2002:84). Therefore, it is inevitable to touch on French administrative law so as to understand historical roots of the concept of public service.

Although the concept of public service had been developed and become prevalent in legislative and legal activities, the theorization of the concept was not made in this period. In addition, the term was used in organic meaning referring to public institutions only, neglecting its functional implications. Therefore, the concept has become an instrument of administrative law, which was sometimes used as criterion to solve administrative disagreements, after the Blanco Case in France in 1873. Afterwards, the phrase of public service was used in the criminal code of France in 1881; this meant the entrance of the concept to legal documents. However, the theorization of the concept of public service was not made until 1900s. In this period, scholars from legal circles, who interested in the reflection of transformation

of the role of state to the public law, tried to make theorization of the concept of public service (2002:92).

In the beginning of 1900s, with the studies of Leon Duguit, Roger Bonnard and Gaston Jéze, who established the public service school (Bordeaux School), used the concept of public service as an explanatory instrument of administrative law and even whole functions of state. The only legal approach to public service that took into consideration inter-disciplinary and multi-dimensional character belongs to Duguit, who is accepted as the founder of the public service school. Duguit considered the concept of public service as an explanatory instrument of state and public law without neglecting its social dimensions. Duguit, a sociologist and philosopher, was interested in the transformation of the state. For Duguit, the functional basis of state is social solidarity rather than sovereignty. The modern state is not only an institution that has sovereignty but also subject to some obligations so as to provide social solidarity. In Duguit's sense, public service is the product of social solidarity, that is; public service is a function that is undertaken by state as a result of social division of labor. The aim of public authority used by governors is to provide control and organization of public services. In this context, public service is limiting and legitimating instrument of public power as well as being source of it. More specifically, governors do not have large freedom in their activities they were constrained with obligation of the provision of the public services. The activities accepted as public service in Duguit's sense should have two elements; firstly, public services must be inevitable for providing social solidarity and secondly, these functions must only be provided by state (2002:30). Since the activities that are considered as the public service has inherent features which distinguish public services from other activities this approach was named as objectivist approach.

Although Duguit is accepted as the founder of the public service school, the ideas of the public service school about the concept of public service differed from Duguit's line. In time, the Bordeaux School perceived the public services as technical legal issue deprived of its social roots in contrast to Duguit's sociological understanding of the public services. The conceptualization of Duguit became object

of serious criticism by the public service school. According to them, this sociological approach neglects legal dimension of the concept of public service.

For Jéze, who is a well-known representative of the public service school, public services are activities that aim at satisfying common needs and they also must be labeled as public service by parliament. According to this approach, the will of governors has determinant and absolute role in the formation of public services. Jéze's conceptualization was named as subjectivist approach because of its emphasis on the will of governors which causes negligence of social, economic dimensions of public service. For Jéze, public service is closely related to the method of provision, that is; public services are the collective needs satisfied by state. Contrary to Duguit's conceptualization, Jéze's approach is a reductionist approach which perceives public services as only technical legal issue contingent upon will of legislators (2002:40).

After the post-war period, as a result of expansion of the role of state in economic activities, there occurred expansion in the public services. In this process, number of sectors including banking, insurance, coal mines, and automobile production had been nationalized and fulfilled by state as public service. In the literature of French administrative law, this was called as "expansion crisis" (2002:94) of public services. According to this, administrative law is not sufficient enough to respond to the changes in the nature of public services. In the 1970s, another crisis has emerged in the domain of public services. This crisis was the "shrinking crisis" (2002:95) that was resulted from decrease in the role of state in neo-liberal period. In this period, formerly nationalized public services have been privatized and state has abandoned its socio-activities, this in turn caused decline in the size of public services provided by state. The European Union is another factor that prompted shrinking in the French public services. France, which has well-known public service tradition and perceived as identical to public services, was subject to distorting effects of European Union's public service understanding despite its uniform resistance.

3.3.2. Anglo-American Understanding

The Great Britain and the USA differs from continental Europe pioneered by France based on Romanist tradition, in terms of their law system. According to Anglo-American law system, called *common law*, all the actors including state are considered equal subjects in front of the law. There is not a separation between public and private law. In this system, the law related to public interest constitutes the exceptional practices of common law but not a different system. In common law system, the market realm is more extensive compared to public sector, there is not a dual system of law having different and specific terminology and method between private and public law based on the idea of public authority and public service. Therefore, in the Anglo-American law system, where welfare state institutions are traditionally weak, administrative law and concept of the public service has not emerged. However, this does not mean, there is not any activity of state in order to satisfy collective needs. State provision of collective needs occurs in this system in different terms, although there is not conceptualization or theory of the public service like France.

The equivalent of the concept of public service in this system is the term “public utility” particularly to mean services like electricity and gas (Örücü, 1970:226). The first connotation of the concept of public service is public bureaucracy in the literature of these countries. Although the term public utility is employed for referring to the concept of public service, these two terms are not identical completely. The term public utility refers to any institution that fulfills collective needs but they are not always public institutions. They are much more similar to regulated private initiatives rather than public services because state provision is exceptional particularly in the USA practice.

The Great Britain experience differs from the USA practice because of its rooted welfare state practice, which symbolizes expansion of the public services. The Great Britain also differs in terms of its pioneering and dominating role in the transformation of the public sector and successive developments on public service. From 1945-1979 there was a broad political consensus about the appropriate role of

state in British politics. In this period, there occurred a huge increase in the role of state as employer, regulator and distributor in economy, which in turn caused increase in the domain of public services. This post-war settlement, which meant expansion of public services, was subject to strain and erosion in 1979 when Thatcher government came into power. With the Thatcher government the ideas of new right undercut the settlement and challenged the role, culture and scope of the public sector. In this regard, British experience, which is going to be analyzed more detailed in following chapter, has pioneering role in the transformation of the concept of the public service.

3.3.3. European Union and Public Service

The understanding of public service has been shaped in a historical context in which the boundaries of public and private domain and the methods of provision are transformed. These are also being transformed by current economic and political changes. As a result of this, national economies and public policy has been evolved through integration and liberalization, which in turn triggered marketization of the public services.

“These are fundamental issues in the continuing formation of the European Union, whose leading institution eschew the term public service” (Martin,2004:2) in favor of a new terminology and principles in the domain of public services. Despite the risk of over-simplification it might be summarized that the main objective of European Union is to provide a common market for Europe based on competition (formally acknowledged at Maastricht in 1992). However, most of the European countries used to have welfare state tradition which based on state intervention to economy and extensive provision of public services. Therefore, there occurred difficulty to adapt classical understanding of public service to European Union based on competition and free market. In addition, there has arisen a polarization between countries of the union. One group pioneered by France has advocated expansion of public service and the others under the leadership of Great Britain argued the

Thatcherist approach of public service based on minimal and market oriented provision of public services. As a result of this, there is not a consistent theory and practice of public service within the European Union, each state has own rules about public services that change from country to country. The European Union's public service understanding, therefore, refers to the conceptualization of the Union's own public service models not the practices of member states. Following Ulusoy (2004) the impact of the European Union to the public service might be outlined as:

3.3.3.1. The Change in the Literature of Public Service

European Commission avoids the term public service¹⁴ and use different terminology from classical conceptualization of public service. With the influence of European Union, the existing terminology of public service has changed. New terminologies have emerged which sometimes tried to replace the term public service itself and the basic criteria and principles of public services has changed and new ones has been added to existing ones.

3.3.3.1.1. New Concepts in the Literature of Public Service

According to Green Paper(= a recent consultative document) from the European Commission (= the EU's executive administration), the term service of general interest and service of general economic interest must not be confused with the term public service because the term public service is less precise. It can have different meanings and can therefore lead confusion (Martin, 2004:2). The term sometimes refers to the fact that a service is offered to the general public, it sometimes highlights that a service has been assigned a specific role in the public

¹⁴ The only usage of the term public service is employed in Rome Treaty article 77 to refer to transportation services

interest, and it sometimes refers to the ownership or status of the entity providing the service.

a) *Service of General Economic Interest:* The term “services of general interest” which is used in the 90/2th paragraph of Rome Treaty but has made clear definition, in spite of its prevalent usage. However, it might be defined as “services, which is crucial for the general interest, and provided for all members of any region in same quality but with changeable fees”. The provider of these service can be public or private initiative but in all cases they are subject to strict control of public authorities (Ulusoy,2004:85).

b) *Universal Service:* It was first used in Green Paper to refer to telecommunication services but by the time has gained prevalent usage, even sometimes replacing the term public service. Universal service means; services that are indispensable for the daily life. The minimum level of provision of universal services is obligatory. The quality and price of these services should be reasonable (2004:86).

c) *Public Service Obligations:* This term is used in this Green Paper referring to specific requirements that are imposed by public authorities on the provider of the service in order to ensure that certain public interest objectives are met, for instance, in the matter of air, rail and road transport, and energy. These obligations can be applied at Community, national and regional level. It is irrelevant under Community law whether providers of services of general interest are public or private; they are subject to the same rights and obligations. Public service obligation has similarities with the concept of universal service but the public service is more comprehensive (2004:87).

d) *The Separation of Basic Service/Additional Service:* The term basic service resembles to the term of universal service but it is much more technical concept which refers to natural monopolies of state that necessitates big investments for infrastructures and is not profitable for the private initiatives. Like universal services, basic services are indispensable for daily life and therefore should be accessible for every citizen in minimum level. Additional service refers to services

that are not involved in other categories and relatively less important services (2004:97).

e) Service of General Interest: This term is equivalent of the term public utility of Anglo-Saxons which are mostly provided by private sector.

All these terms are sometimes used as identical concepts and all of them are tried to replace the concept of public service and provide minimum level for the public service they cannot be as comprehensive as public service. It is also difficult to decide minimum level of service and reasonable quality and price are not clear enough to determine. Hence, it might be concluded that there is not a unity in the terminology of public service in European Union and existing terminology is not clear enough to provide prevalent and precise conceptualization.

3.3.3.1.2. The Change in the Principles of Public Services

With the impact of European Union the basic principles of public service has changed. According to this, the monopoly of states or competent organs of these states to determine the existence of public service have been abolished because the European Commission has similar authority to determine the prevalence of public service. Furthermore, new principles were added to the already existing ones as follows (Ulusoy, 2004:100-106);

a) Quality and Effectiveness: This principle is underlines the importance of rights of consumers and competition factor in the provision of public services.

b) Citizenship: The aim of this principle is to provide basic public services for every citizen with reasonable quality and prices.

c) Participation: According to this principle, citizens and their associations and unions should be enabled to participate in the decision process of public services as beneficiaries or customers of public services in order to provide transparency.

d) Openness: The provider and regulator of any service should give information about public service to the beneficiaries as soon as possible.

In addition to these new principles, the existing principles have experienced transformation, too. According to these, equality, continuity and adaptation principles were interpreted in accordance with economic values.

To sum up, The European Union is an important factor in the domain of public service. Changes resulting from European Union have been influential on the transformation of the concept of the public service. In general, the development of the European Market and the European Union has enormous consequences for politics, economics and public administration which tried to bring together state and market. It also raises issues relating to public services and their provisions through which accountability, citizenship and transparency of the public services have become more dominating. European Union which has imposed obligations new standards and procedures on public sector organizations to comply with European Union and brought about institutional changes attributed transformation of the concept of public service particularly in terms of literature and principles of public service.

3.3.4. The Turkish Practice

The evolution of Turkish public service understanding had begun with Ottoman modernization process after which the functions of state increased. Before this reform process, there had been some activities of state which might be considered as public services. However, none of them was public services in contemporary sense of the term.

Throughout classical period of Ottoman Empire, the idea of public service had gone hand in hand with the policy of land that based on “*timar system*”. According to this system, the property of land belonged to state, but rights of using and utilizing land was transferred to farmers in return for providing of armed forces. These forces were employed to provide order and security of state (Ortaylı, 1979: 91-92). In addition, there were not the central organizations to fulfill public services in Ottoman Empire. Apart from providing law and order, state did not undertake any activity in

the socio-economic life. Hence, state intervention to market did not occur throughout Ottoman Empire. The idea of civil servants in modern sense did not develop. The people, who work for the state, were considered as the slave of sultan rather than being state functionaries. In short, within the classical period of Ottoman Empire, the idea of public service was not established.

However, it is possible to see some activities, which are called public services today, although their provision methods were rather different from contemporary ones. In Ottoman Empire these activities, which aims at satisfying collective needs, such as education, health, social charity and urban services used to be fulfilled by a mixed method involving state, individuals, foundations and guilds of artisans. For example, kadhis were responsible to fulfill municipality services in urban space, and some municipality services were provided by guilds of artisans (Ortaylı, 1979:201). The most important institution in the provision of common needs was the foundations established by individuals. Most of the collective needs that are called as public services in contemporary sense such as education, health and infrastructure used to be fulfilled by the foundations (Özay,1998:294). Although the foundations had some privileges and obligations such as prohibition of selling and transferring that make them immune to activation principles of market and give public character, the common needs provided by these foundations cannot be considered as public service in contemporary meaning. They worked as charity institution rather than being public service institutions which consider public service as the social rights of citizens.

Within the reform process of Ottoman Empire, which was accelerated in the era of II.Mahmut (1808s), the function of state had expanded. Services provided by state had become more prevalent than before. For these reforms, French model was adopted and many of services were institutionalized in accordance with France practices. This in turn had increased French influence on the theory and practice of public service. In this period, called Tanzimat era, number of administrative reforms were made such as the services which used to be provided by the foundations previously were started to be fulfilled newly-formed ministries. In addition, new public services, which used to be out of the activation realm of state, were

undertaken by state such as census, postal service and even trade. The land system that was the basis upon which public services operate had changed then, a new class of civil servants occurred in the military and administrative services. Moreover, limited industrialization attempts were made by state but they had not been effective enough.

With the establishment of republic (in 1923), in accordance of the transformation of the role and structure of state, the idea of public service evolved. The common needs that were carried out by the state had increased. Furthermore, state had begun to undertake role in the economy in order to provide industrialization. As a result of this, some public enterprises were founded so as to fulfill industrial functions¹⁵. Therefore, the scope of the public services expanded including many economic activities. Particularly, with the impact of etatism principle, state undertook new roles in order to satisfy collective needs where private initiatives failed. According to this, state is considered as a temporary and secondary institution that compensates shortages of market. The other evident feature of public service understanding of state in this period is the subjectivist approach to public service according to which public services are perceived as a label put by parliament (Karahanoğulları, 2002:96).

Some of the scholars from administrative law circles tried to make theorization of public services, particularly; the studies of Onar had been very influential. Onar's theorization has close relations with the Jéze's, therefore, Onar was considered as the representative of Bordeaux School in Turkey (Özay, 1998:293). In sum, despite the existence of slight differences the French impact is highly salient in the studies of these scholars because most of them studied administrative law in France from where Turkish administrative law system was adapted. Particularly, Jéze's arguments found profound repercussion in Turkish literature.

Beginning from 1970's, in compliance with the decrease in the role and size of state, the domain of public service has undergone a shrinking process. More specifically, this process was a market-driven transformation resulting from neo-

¹⁵ For example, Sümerbank, engaged in textile manufacturing, (1933), Etibank engaged in energy production and mining (1935), Karabük Iron and Steel Enterprise (1936), Soil Products Office (1938)

liberal policies. Thus, the concept of public service has experienced an overall transformation process that is going to be analyzed within the following chapter.

3.4. The Domain of Public Services

The realm of public services is the context in which public services are located and the basis upon which public services operate. As Karahanoğulları (2002:45) argued, the basis of public service is production activity of goods and services in order to satisfy collective needs. These production activities differ from usual production activities of individual and private initiatives because of its public character. Therefore, the domain of public services has some features different from private sector that constitutes basic principles which make these activities recognizable as public services.

At first stance, the domain of public service evokes the debates on the public sphere in Habermas's sense. However, the idea of the public sphere in Habermas's sense has not any relation with the domain of public services. The public sphere conceptualization of Habermas designates a thrasher in modern societies in which political participation is enacted through the medium of talk. Following Fraiser (1992), the public sphere might be defined as;

a space in which citizens deliberate about their common affairs and hence institutionalized arena of discursive interaction. This arena is conceptually distinct from the state, it is a site for production and circulation of discourses that can in principle be critical of the state. The public sphere is also distinct from the official economy; it is not an arena of market relations but rather one of discursive relations, rather than buying and selling relations (Fraiser, 1992:110).

In Habermas's conceptualization, the publicity means an institutional mechanism for rationalizing political domination by rendering states accessible to the citizenry (Fraiser, 1992:118). However, distinct from Habermas's sense, public in the debates on public service refers to opposite of private particularly, public ownership and accessibility to public. The sense of a service provided by the state is certainly

one of the senses of public when applied to services, but, there are many others: services to public; services on behalf of public; services providing public goods; services accountable to public and so on” (Martin, 2004:1). The publicity of the concept of public service therefore, means contingency on public finance, public decision, public budget, public authority, having privileges to benefit public subventions, public sources. The domain of public service is evidently distinct from the public sphere, because public service is a kind of production activity of goods and services that contrasts to the discursive character of the public sphere, and closely related to the state/economy dichotomy and market relations.

In the capitalist societies, there is an important divide between two sectors of the economy and society: namely the public and the private. This basic dichotomy refers to both institutional differences and interests or individual preferences. The institutions of politics, government, and bureaus characterize public sector whereas various market institutions indicate the private sector. Persons, groups and elites often use public interest as a criterion for policy making in the public sector, whereas self-interest prevails in the private sector (Lane,1993:viii). Fundamentally, the common needs in capitalist societies are satisfied by market in which individuals act through their free wills. However, it is not possible to supply all the needs from market. In such situations, the state becomes part of this provision activity (=market failure) and therefore, public sector involves in the supply of needs. Indeed, as stated before, to decide whether public or private sector should be more dominating in the provision of public services is an ideological preference of state (=choice principle).Hence, some activities that aims at satisfying common needs can theoretically be produced in private sector but as a result of deliberately preference of state, these activities can be located into the scope of public sector. This preference has important influences on the character of this production activity, that is; any activity of private sector may become public service after this undertaking of state. As a result of this alteration in the characteristic of production of the goods and services, public services have to be fulfilled through specific privileges and obligations. Fundamentally, these activities become immune to activation principles of market which is based on profit maximization. Thus, public services are provided

in accordance with social objectives such as equity, redistribution of income rather than pursuing market principles because of its publicity. Therefore, the public services have to obey some basic principles that are accepted as the ontological premises of being public service (Karahanoğulları, 2002:189). These principles impute public service attribute to the goods and service that aims to satisfy collective needs. In addition to their crucial role in the ontology of public services, these principles have also determinant role in the epistemology of the concept of public service because these principles determine the law to which public services are going to depend whether private law or public law. Due to this, basic principles of public services are named as the “shared law of the public services” (Karahanoğulları, 2002:118). Following Karahanoğulları (2002), Gözler (2003) and Ulusoy (2004) these basic principles might be outlined as, continuity, publicity, equity, equality, change and public interest.

3.5. Basic Principles of the Public Services

The common measure to evaluate the public service is to examine its intrinsic principles or features that distinguish it from private sector. However, this essential public/private distinction has been eroded due to current ethos of market-driven reforms. As a result of this, the norms of public service have been forsaken in order to replace by business norms like competitiveness, efficiency, effectiveness, economy, productivity and profitability. Furthermore, new principles were added to the classical ones such as accessibility, responsibility, participation and transparency.

The principles of public services were firstly formulated by Lois Rolland, who is an administrative law scholar from France, in 1930. Therefore, basic principles of public services are named Rolland Rules in literature (Gözler, 2003:263). According to Rolland, public services are abided by the principles of equality, continuity and adaptation (Karahanoğulları, 2002:189). In addition to these principles, the principles of public interest (Gözler, 2003: 221) and gratuitousness (Karahanoğulları, 2002:

226) must be taken into consideration in the context of distinguishing features of public services.

3.5.1. The Principle of Continuity

This principle means the continuity of provision of public services, which means production activity of goods and services so as to satisfy collective needs, in compliance with the continuity of the common needs. The principle of continuity has two dimensions as permanence and proper functioning each of which has different results. For example, continuity in the national defense, internal security, and first aids refers to permanence whereas continuity in other services refers to proper functioning of the services (Karahanoğulları, 2002:190).

The principle of continuity has significant implications in terms of administrative law such as prohibition of strikes in the public services (54 and 71st articles of constitution). This principle is also closely related with rule of law that is based on the idea of foresight and stability in the state functions. In addition, the continuity in the satisfaction of collective needs might be considered as the guarantee of current political and economic system. More importantly, the principle of continuity provides formal basis for right to demand to the beneficiaries of the public services.

3.5.2. The Principle of Equality

The equality principle of public services, which has sub-categories as neutrality and laicism¹⁶, emanates from the principle of legality which is one of the basic principles of law (10th article of constitution). According to this, the law and activities of state is implemented to every citizen without making individualistic discrimination (Karahanoğulları, 2002:200). However, equality in the provision of

¹⁶ see Gözler, (2003: 285-287) who classifies neutrality and laicism principles as independent principles

public services does not mean absolute equality. On the contrary, as a result of public characteristics of the public services, it is possible to make positive or legitimate discrimination to protect underprivileged classes in order to provide redistribution of wealth that aims at lessening income inequalities

Like the principle of continuity, this principle has two dimensions; first, in terms of citizens it means being equal as subject of the law and second, it refers to impartiality of state in its application of law and activities. This principle has serious implication for the beneficiaries of the public services that is; the principle of equality suggests a “universally accessible domain involving the interests of all citizens” (Haque, 2001:66). In order to provide this, it is essential to ensure that public services serve the needs and demands of diverse social groups and classes constituting the equality “beyond the parochial interest of a selected class or group. In this regard, the objectives of public service should be based upon the principle of common public well-being or the well-being of all citizens” (2001:68).

The provision of any good and service as public service aims at providing “for a greater number or broader scope of service recipients implies a higher degree of publicness” (2001:66). In line with the shift in public service resulting from current transformation, there has been a considerable restructuring in the content and methods of public services “in such a way that underprivileged citizens could be left out of from the provision of services” (2001:68) having distorting effects on the equality principle of public services. This shift has also transformative influence on the status of beneficiaries, which will be analyzed within the following chapter. According to this influence, the citizens who has right to utilize public services has become the customers of public services who should pay for this services.

3.5.3. The Principle of Adaptation

This principle means the necessity of adaptation of the public services to the changing conditions that occurred in science and technology. According to this, government should adjust provision of the public services in accordance with

contemporary changes. This principle is also critical in the interpretation of the transformation that public service has undergone. In the literature, there emerged critical explanations regarding inherent obstacles of classical methods, content and principles and “public service itself has experienced businesslike transformation, especially under the influence of current global context characterized by the triumph of market forces and the reorientation of state policies towards deregulation, privatization and liberalization” (Haque, 2001:65). Some of the scholars have favored this change and interpreted this process as a “development” of public services (i.e. Eryılmaz, 2004 and Savaş, 1998). On the other hand, some academicians are highly critical towards this change and name this as transformation, which has serious distorting effects on the public character of public services (Aksoy, 2004, Karahanoğulları, 2002 and Haque, 2001).

In sum, it cannot be denied the necessity of adaptation of public services to changing conditions. However, to deem this change as a development, which is a value-laden wording, brings the conclusion that this transformation is inevitable and even necessary result of current global context characterized as neo-liberalism.

3.5.4. The Principle of Gratuitousness

This principle is not considered as a common principle of public services because any of the public services is not free of charge (Karahanoğulları, 2002:226). The beneficiaries of the public services pay for their using of public services whether directly or not. That is to say, the price of public services is financed by the collective payment of taxes, but as a benefiting premise, most of the public services are free of charge whereas citizens sometimes pay for the some of the public services such as electricity, gas and postal service as a benefiting premise. However, this payment cannot be considered as the price of service, in general this fee is under the real cost of the service therefore; there is not a buying or selling relation between provider and beneficiaries in commercial sense and these payments are generally named as expenditure, dues rather than price. In commercial sense, the price involves

both the cost and profit of the goods or services. In the case of the public services, states do not aim at profit maximization. Due to the public character of public service, the purpose of state to make accessible goods and services for the broader amount of the citizens including diverse social groups and classes. In this regard, public services have a role in the redistribution of wealth overcoming income inequalities.

In line with the shift in public services, “there has been a considerable restructuring in the allocation and use of public resources” (Haque, 2001:68). As a result of this, public services have become to be financed by the direct payment of the citizens. Almost every public service is abided by the premise of paying price of the service used by the citizens. In this regard, the citizens have become customers of the public services rather than citizens who have right to use and demand for the public services. In the literature it is proposed to call citizens as “usagers” of the public services instead of the term “beneficiaries” (Gözler, 2003:430). At first stance, it seems a simple wording preference. However, it has serious implication in terms of marketization of public services because it is no longer called the benefiting from any service but using of merchandises.

3.5.5. Public Interest

The concept of public interest has a vital role in social science and it has prompted larger questions and become important issue to conceptualize. Authors as diverse as Plato, Aristotle, Rousseau, Hegel and Marx have largely contributed to the conceptualization of the concept. However, there is a widespread disagreement about the meaning of the public interest and the concept has stayed as an ambiguous term. Since ancient Greece, philosophers have assumed the existence of a public interest that is more than the sum of the interests of the individuals. However, the utilitarians and New Right theorists have argued that the public interest is the sum of individuals’ interests (Elcock, 2006:101). These rival views about public interest resulted significant impacts on the role of the state. While the public interest was

assumed to be provided by the means full employment and extensive provision of public services, which were thought to serve common goodness, since the 1980s with the impact of theorists of the New Right have asserted that public interest is consisted of the sum of individuals' wealth, happiness and avoidance of pain. Therefore, the role of state should be limited to maximizing freedom of individuals. Since bureaucrats and politicians are rational act in their interests, the numbers and powers of them should be minimized through privatization, contracting out (2006:103).

The debates about the content of public interest have extensive implications for the concept of the public service as well. In this context, Ataay (2005:64) asserts that in the time dimension, different approaches on the concept of public service stems from different understandings of public interest. For Ataay (2005:28-29), since the role of the state is legitimated on the ground of providing public interest by the means of public service production, the changes in the domain of public services are closely related to different conceptualizations of the public interest. For this point of view, public services are considered as the instruments of public interest that is resulted in different types of state.

However, in the current literature, there is no agreement on whether public interest is one of the basic principles of public services or not. To some, it is only a myth under which policy desired by the predominant will can be rationalized as that of the general interest. In this regard, "state is regarded as the representative of the common interest of people because it is premised on the individual interest of capitalist society. The general or social will is abstracted from the genuine interests of individuals" (Gough, 1981:43) and public interest is perceived only the sum of interests of atomistic individuals. According to Karahanoğulları (2002a:44, 2002:4 and 50), it is not possible to reflect genuine common interest via this mystification and therefore, public interest is not a general principle of public service provision. To others, public interest is one of the ontological premises of being public service (i.e. Gözler, 2003, Ulusoy, 2004). According to Gözler (2003:226), the concept of public interest is an ambiguous term. In order to overcome this ambiguity, the legislation

should be only authority to decide to whether public interest exists or not in a particular activity.

Without going into details of debates on public interest, it might be concluded that the concept of public interest as a principle of public service provision refers to opposite of self-interest making emphasis on publicness of public service. More specifically, the public interest is closely related to the immunity of the realm of public service to market rules based on profit maximization. In this regard, the concern for the public interest might be conceived as “morality or ethic in public service provision referring universalistic character of state that has to serve the common good without making any sort of distinction between man and man” (Bhattacharya, 1987:4) and a standard that guides administrator in administrative law and public administration.

In conclusion, public services are provided in compliance with some basic principles that constitute ontological premises of being public service. With the help of basic principles of public services, public services become easily recognizable. These principles are considered as the inherent features of public services that distinguish them from other activities by stressing the publicness of the public services that is a reflection of social concerns in the provision of public service. In addition to these classical principles, with the impact of neo-liberal policies and especially under the influence of New Public Management approach in the field of public administration and the process of adaptation to European Union, the principles of the public services have been diversified including accountability, openness, responsiveness, transparency, responsibility and participation.

As mentioned above, provision process of public services does not pursue the rules of the market. Because of its social concerns such as protecting underprivileged and poor, the activation of the public services domain is immune to the market relations. Therefore, the domain of public services has some privileges and obligations that distinguish it from market realm. First of all, the financing of public services is procured by the public resources that composed of taxes, transfers and para-fiscal incomes collected from citizens. Public sector aims to redistribute income between low-income and high-income population. Hence, public resources are

abided by strict rules and law. Secondly, in order to fulfill public services a public organization should be established for each public service and the budget of this organization is financed by public resources. Thirdly, the staff of these organizations are civil servants who are employed by a statutory relation by state and civil employee rather than a contractual relation. Briefly, the law that will be applied to public services, its institutions and employees are completely different from the law of personal relations that based on free will, public services are abided by the public law which includes detailed and strict procedures and checking mechanisms.

3.6. Types of Public Services

In the literature of administrative law, the functions of administration are generally divided into two categories as public services and police (=kolluk) consisted of maintenance of law and public order. Despite the existence debates on whether it is a kind of public service or not, police function of state is accepted a category of public service (i.e Tan, 1991:242, Gözler, 2003:216). In fact police activity of state might be considered as public service because like national defense services it aims to provide order in the society and it realizes satisfaction of any collective need.

Another categorization on typology of public services is making separation between industrial-commercial public services and administrative public services. According to this, administrative public services refer to traditional public services that are provided by state. Industrial-commercial public services are the economic activities of state which decreased with the expansion of role and size of state (Gözler, 2003:236). According to Gözler (2003), besides its legal implications, the significance of this separation is industrial-commercial public services symbolize temporary expansion in the role of state that caused by market failure. Therefore, these kinds of services might be provided by the rules of market and they should be relinquished as soon as possible. Furthermore, these services might be provided in

return to prices paid by usagers. In this regard, the usagers of this kind of services should be considered as the customers of these services rather than beneficiaries.

In the literature, there are additional categorizations that classify public services into more sub-categories such as social public services, scientific-technical public services (i.e. Günday, 2004:301-304, Duran, 1982: 317-319). However, as Karahanoğulları (2002:299) argued these classifications cannot be valid because new categories can be added and existing ones can be ordered according to different criteria. Furthermore, as a result of transformation of public services new types of public services such as virtual public services, universal services, constitutional public services and services of general economic interest which were explained in previous parts of study.

To recapitulate, over the last decades there has arisen a transformation in the role and size of the state which in turn prompted lots of changes in the field of public administration having profound effects on the public sector and the concept of public service. As a result of this, the concept of public service has undergone a transformation according to which the content, meaning, principles and provision methods of public service have changed. In the existing literature, this change is interpreted as technical legal issue, particularly an adaptation problem of law to the changing world order. Besides its legal dimension, transformation of the concept of public service has significant relations with political science and public administration because transformation of the role and structure of state and changes in the field of public administration has tried to legitimize itself via the discourse of providing more efficient, effective, economic and productive public services. Therefore, to evaluate and understand what public service is and what its weight in the political science and especially in public administration have become important issue.

The concept of public service is used as an object of law in particular administrative law because the conceptualization and theorization of the concept was made by scholars from administrative law circle in France. Although the conceptualization was first made by Duguit in terms of sociological perspective, its inter-disciplinary and multi-dimensional character was neglected by the time. Hence,

the legal dimension has become more dominating in the academic studies. Moreover, most of the scholars have thought that it is difficult to conceptualize and define the concept of public service. The existing definitions and conceptualization failed to comprehend its inter-disciplinary, multi-dimensional and transforming environment. It is concluded that the concept of public service is experiencing an identity crisis.

The concept of public service is situated on the focus of the current transformation that emerged in global context and this transformation has forsaken basic principles of public services in order to replace new market based public service provision. As a result, the concept of public service has undergone a transformation and basic assumptions on the concept have been shattered. Thus, the concept of public service has become more ambiguous.

The purpose of this chapter has been clarifying different public service definitions otherwise very diversifying and seemingly complex and complicated. By taking this feature into account, I hesitated deliberately from giving a precise definition of public service knowing that it will not be an all agreed upon definition of the concept. Therefore, instead of making a new definition, I tried to provide an explanation of what public service is. However, despite all these complications if we were to give a working definition of what public service is the definition provided by Karahanoğulları seems to be meeting my expectations relatively better. In the following chapter, the overall transformation of the concept through market values, its repercussions and relations with neo-liberal policies will be analyzed.

CHAPTER 4

TRANSFORMATION OF THE CONCEPT OF PUBLIC SERVICE

The domain of public services has been in a constant state of flux since its emergence. The reasons for evolution of the public sector and the public services are closely related to the nature and ideology of state since public services represent the most concrete form of the role of state. In this regard, the way in which transformation of the concept of public service taking place cannot be grasped if abstracted from the contemporary happenings in economy and politics, which express challenges and changes facing the public sector.

Following World War II, the concept of public service was faced with an evolution named “expansion crisis” resulting from expansion in the role and size of state in various socio-economic activities. Particularly, after the Second World War, there occurred a huge increase in the role of the state as an employer, regulator and distributor. As a result of this, the scope of public services experienced a significant expansion in almost all societies. A large public sector, which was illustrated by the number of public employees, the level of public expenditure and public service provision, became pronounced not only in advanced capitalist economies, but also in socialist nations and newly independent Third World countries. For Haque (1996:187);

The absolute role of the public sector in socialist countries resulted from their ideological disposition, whereas the practices in capitalist states occurred due to the increasing role of the state in overcoming market crises through fiscal and monetary policies, in providing social welfare demanded by the public and in addressing problems such as poverty, unemployment, crime and homelessness.

In the Third World countries, the scope of public sector expanded to compensate the shortcomings of the private sector, encourage private entrepreneurship, provide employment, redistribute wealth and perform development programs (Haque, 1996:187). Such an expansion of public service came under serious criticism and a new type of accumulation regime was proposed in order to

overcome handicaps of this expansion. Thus, beginning from mid-1970s, the concept of public service has undergone another transformation process called “shrinking crisis” (Karahanoğulları, 2002:1). According to this, traditional assumptions about public services are shattered by promoting the gradual replacement of public service through pro-market values that cause profound changes in the objectives, structures, functions, norms, users, and delivery methods of public services all across the world.

The most evident change in the fulfillment of the public services has emerged along with privatization, particularly in the United Kingdom, which has been pioneer of the marketization process. Due to its specific role, the United Kingdom can be considered as an exemplar in the transformation debate of the concept of public service and therefore, throughout the study, British experience will be employed as a touchstone in order to explain Turkish practice.

The shrinking crisis of public service, which is going to be elaborated within the scope of this chapter, might be characterized as a market-driven transformation which occurred under the influence of “current global context characterized by the triumph of market forces and the reorientation of state policies towards deregulation, privatization and liberalization” (Haque, 2001:65) underpinning the neo-liberal project. This new mode of administrative reforms, often generalized as new public management, has been put into practice under various titles in both developed and developing countries having serious impacts on the economy/politics and state/citizen relations and scope and depth of public service itself. In this part of the study, the transformation of the concept of public service as reflection of “new trends in the domain of the public services” (Karahanoğulları, 2003) is going to be analyzed, particularly focusing on the negative effects on the public characteristics of the concept of public service.

4.1. Dynamics of the Transformation

Starting from the mid-1970s onwards, there has arisen a total transformation process throughout the world in almost every aspects of life. As a result of this

transformation, the global context was changed by the spread of neo-liberal policies which brought about the redefinition of state policies towards deregulation, privatization and liberalization on the axis of market-led values. In this process, the role and size of state have been put under critical questioning and there occurred a search for a new approach for the public sector. Moreover, the discipline of public administration has experienced a transformation both on theoretical and practical dimensions. New approaches have emerged, which might be summarized under the title of new public management, having transformative effects on the basis in which public services operate through marketization. With the marketization of the domain of public services, there has been a rapid expansion of pro-market values and techniques such as competitiveness, the emphasis on efficiency, effectiveness, economy, productivity and accountability in the provision of the public services. As a result, content, provision methods and ethos of the concept of public service have changed along with market-driven process.

The dynamics of the change in the public sector and the domain of the public services may have been provided by the changing economic and social conditions subsumed under the neo-liberalism as well as under the impacts of the public choice theory, new right ideology, new public management and related approaches. The ideological basis of the development of market-based approaches to public service management might roughly be characterized as the new right. The new right adopts traditional liberal forms of thinking, emphasizing the efficiency of the market as well as maintaining the freedom and the rights of the individual. However, the transformation of the public service has a number of roots, and is not simply the result of the rise of liberal economic thinking. The market-based approach has been significant in countries such as New Zealand and Australia, governed by the left, as well as in right-wing regimes such as those of Thatcher and Reagan. As argued by Walsh (1995:56), “in many cases the reason for change in the management of the public service were pragmatic, reflecting either the fact that the existing approaches were seen as having failed, or increasing fiscal pressure”. In this regard, change was seen as being inevitable and necessary to cope with shortcomings of existing institutions.

Public service practices in Turkey have undergone similar transformation as well. However, Turkish practice has differed in some aspects with respect to external pressures of the international agencies such as International Monetary Fund (IMF), World Bank (WB) and European Union (EU) and indigenous socio-economic and political conditions.

4.1.1. Dynamics of Transformation in Turkey

During the late 1970s, Turkey was experiencing serious problems due to the social and political struggles and economic problems. In 1980, Turkish government has put into practice “24th January Decisions” which symbolize a total change in economy and politics. With the implementation of 24th January Decisions, previous economic development model based on import substitution was replaced by export oriented one. Therefore, post-24th January period represents the transformation of the role of state in Turkey because until 1980, the role of the state used to base on intensive state intervention to the economy as a producing, planning and regulating agent. In this process, number of publicly owned economic enterprises was established in order to produce goods and services. In addition, strict rules and regulations on market and restrictions on trade were applied in order to support domestic economy.

In the 1980s, after the implementation of 24th January decisions, the existing accumulation regime based on state intervention was replaced by a new economic policy based on free market. According to this, market values have become more dominating. Along this line, deregulation and financial liberalization have been favored in order to be articulate in a global context. As a result, the size of public sector has narrowed and public production of goods and services has decreased due to the transfer of the public services, which were undertaken previously by the state, to the private sector. Furthermore, private sector and foreign capital have been considered crucial elements of economic growth; they were perceived more efficient, economical and effective actors in order to overcome shortcomings of traditional

model. This new model based on priority of market has become prevalent policy, and it has been consolidated in 1989 with the financial deregulation. Under these circumstances, a comprehensive public sector reform has been put into practice under the guidance of IMF and WB causing a total transformation in economic, administrative and political aspects in compliance with neo-liberal policies. The policies implemented throughout 1980s, subsumed under the title of first generation structural adjustment reforms, were consisted of full liberalization of trade, removal of all constraints for capital and de-regulation policies. Beginning with the 1990s, the transformation process itself has experienced changes¹⁷. The minimal state and deregulation discourse of 1980s were replaced by minimal but efficient state and re-regulation with the implementation of second-generation reforms. For this view, state should act as a monitoring and regulating agent in order to provide well functioning of market. However, re-regulation activities of state do not represent a rupture from neo-liberal policies. On the contrary, parallel to 1980s, these activities were aimed at underlining priority of market vis-à-vis private sector. In this period, state has acted as an active actor in making legislative arrangements that had transformative impacts on the public sector. Unlike the first generation structural reforms, an active role was assigned to the state in order to provide well functioning of the market. Despite this difference stemmed from the role of state, second generation arrangements do not represent a divergence from the first generation rather, it might be regarded as the supplementary to them due to its adherence to the market rules in the final analysis (Bağımsız Sosyal Bilimciler, 2005:9). These policies were adopted by both coalition government of the 2000s and the Justice and Development Party government, which came into power in November 2003. Throughout the second generation structural adjustment reforms, which has begun after the 1998 and 1999 stand-by agreements

¹⁷ For Independent Social Scientists

(http://www.bagimsizsosyalbilimciler.org/Yazilar_BSB/BSB2005July.pdf), the period in which Turkish society has been restructured through neo-liberal policies might roughly be divided into four sub-categories. According to this;

- 1) 1980-1988 liberalization in foreign trade
- 2) 1989-1993 liberalization of international capital flow
- 3) 1994-1999 financial crises and instability
- 4) after 1999 restructuration and re-regulation

and consolidated by November 2000 and February 2001 crises, number of laws were enacted in the fields of banking, agriculture, international arbitration, social security, education and health which aimed at to commodify these services through privatizations. In this regard, the 1999 amendments to the Constitution, establishment of Independent Regulatory Agencies and enactment of laws subsumed under the title of public administration reforms¹⁸ have played crucial role in the transformation debate of the concept of public service. Particularly, so-called reform process in the public administration, which has been introduced on the pretext of improvement in service quality, providing efficiency, effectiveness and economy in the public service provision, democratization by the means of localization and participation, has critical implications for the transformation of the public services, details of which will be examined in the subsequent parts of the study.

The legitimization of this process is provided by the concepts such as public reforms, efficient state, civil society and democracy. The concept of governance, which is employed by different disciplines having variety of meanings, has become popular and widely emphasized by WB and other international agencies as a policy tool. Governance has implied a change in the relations between state and society (Kooiman, 1993: 1-3) and a new role for the state. The role assigned to state in the governance context is an enabler state which provides well functioning of the market. Beginning from 1990s, the governance has been employed for proposing political economic and administrative reforms and as an instrument of gaining public support for the transformation. Particularly, good governance approach of WB has played crucial role due to its specific emphasis on transparency, accountability, participation and democracy. In this context, governance was emerged as an instrument that enables participation of different actors such as representatives of state, capital, labor, civil society organizations and non-governmental organizations into both public service provision and the decision making and implementation process of public issues. By this way, it was thought to be an instrument for the overcoming the

¹⁸ Public administration reform consists of 4 laws as; in 3th 8 2004 law number 5227 The Law Concerning the Basis Principles of Public Administration and its Restructuring, in 22th 2 2005 law number 5302 The Special Provincial Law, in 7th 12 2004 the law number 5272 The Municipality Law and in 22th 7 2004 the law number 5216 The Greater City Municipality Law

problems that the Third World countries experienced during the implementation of neo-liberal policies. However, it has not implied more than legitimizing the neo-liberal policies because of its adherence to the primacy of market principles rather than providing public participation and improving accountability. In this respect, governance might be accepted as the supplementary of the neo-liberal policies because of its commitment to primacy of market.

In the transformation process, diverse set of reasons have been influential, which differentiate Turkish practice from general context, as follows¹⁹;

First, successive and chronic economic crises that characterize Turkish economy had determinant role in the shaping of Turkish public sector. As a result of these crises, Turkey has stuck in a chronic debt spiral and therefore, subjected to pressures of international agencies such as IMF and WB. Turkish government made lots of commitments to these agencies about providing well-functioning of market and marketization of the public services in order to gain right to utilize credits provided by these agencies. The stand-by agreements contracted with IMF and the recommendations of WB to overcome economic crises have become one of the key factors that shape this transformation process in Turkey.

Secondly, “the European Union is another important factor in the context as well as in the content of change” (Henry, 1997:17). The development of the European market and the European Union has critical implications for politics and public administration in Turkey. Turkey’s strive for the EU membership necessitated some criteria to integration. According to these, Turkey has prepared a program, which has transformative effects on legal, administrative, political and social structure, to adapt the union. Turkish government has made legislative arrangements with the impacts on the public sector especially stressing the importance of transparency and competition in the public services. Furthermore, the EU has developed different theorization of the concept of public service explained in the previous chapter. With this new theorization, the existing literature and principles of public service have been diversified, which in turn shaped the content of the transformation.

¹⁹ See Sönmez,Ü., 2004:128–150 for a similar debate

Thirdly, some business elites such as TÜSİAD (Turkish Industrialists and Businessmen's Association) and TOBB (The Union of Chambers and Commodity Exchanges of Turkey) have supported the transformation and IMF guided economic programs with enthusiasm. These groups have made frequent public announcements and written publications on economic and political issues and public administration making suggestions in order to overcome problems of these spheres via mass media. The suggestions are generally composed of themes such as maintaining fiscal discipline within the framework of IMF program, providing competitive, free market economy, making legal regulations to attract foreign direct investment, promoting private sector and lowering tax rates (Güveloğlu, 2003: 36). In particular, TÜSİAD have published documents about the organization and activation of the domain of the public services. All these suggestions about public sector have referred to awkward state, unproductive state economic enterprises, corruption of public sector, red tape of bureaucracy, poor quality of public service provision, and prompted the necessity of the transformation of public sector through market values and private sector practices, which are believed to be more efficient, productive and economical way of provision of the public services.

Fourthly, the privatization process, which refers to a number of developments relating public sector activities in particular public services, have profound influences on aiming at more closely to those of the private sector. First, in its most well-known form it points out to the transferring of ownership of public enterprises from public to private sector initiatives. Second, some public services have been deregulated in order to reduce monopolistic tendencies. Third, it means the contracting-out of the delivery of public services to private and voluntary organizations (Henry, 1997: 7). Privatization, which has been perceived as a panacea throughout 1980s and 1990s, has critical implications for the domain of public services as they are going to be analyzed in subsequent parts of the study. However, it is important to note that, the debate about public service is perceived identical to privatization and therefore, transformation of the concept of the public service has been limited to the privatization that constrained the debate by severing the concept from its broad contextual richness.

In addition, the academic sphere has also played crucial role in creating negative image for the concept of public service. Many scholars (i.e. Eryılmaz, 2004, Savaş, 1998) are skeptical about the public sector and public services. “As there are demands for governments to do more and more effectively and efficiently, public services are often seen as parasitic on the private sector” (Hughes, 1998:84) The studies of these scholars, who underlined the necessity and inevitability of the transformation, have attracted large amount of people complaining about existing institutions. Parallel to these, think-tanks such as TESEV (Turkish Economic and Social Research Foundation), which defined itself as “ an independent think-tank, which forms a bridge between academic research and the policy-making process,... carries out research based on scientific principles, and seek to share its findings with the widest possible audience.”²⁰ have published lots of documents favoring the transformation. Furthermore, general manner of mass media and press have reinforced this process by underlying the negative aspects of existing public institutions and necessity to integrate global context through neo-liberal policies and marketization.

In sum, all these factors have been influential in Turkey and differentiate Turkish case from general context. The common point of these factors is the specific reference to the necessity and inevitability of the transformation of the public sector thorough neo-liberal policies. Thus, a radical change has occurred in the Turkish public sector by which the basic assumptions about the concept of public service have been shattered and new trends, which symbolize the transformation of the concept of public service, have become gradually dominating in the domain of the public services.

²⁰[http: www.tesev.org.tr/eng/](http://www.tesev.org.tr/eng/)

4.2. New Trends in the Domain of the Public Services

The propensity to change is affected by the composition of many variables. The combined effect of a series of factors has prompted a total transformation in the domain of the public services having profound impacts on content, method, language and ethos of the concept of public service. This transformation experienced by the concept of public service has come into being as new trends in the domain of public services which might be summarized as “shrinking crisis of public service” (Karahanoğulları, 2002). With these trends, classical premises of being public service consisting of fulfillment by public authorities, provision for fulfillment of public interest and domination of public law have abolished. As a result of these trends, a swift shifting towards a more fragmented, more privatized, more market-oriented form, which caused a serious challenge to the public characteristics of the public services, has been created.

In this section of the study, the contemporary market-oriented changes, which embodied by the phenomena of new trends, will be critically evaluated giving specific examples particularly from Turkish practice and British experience. These new trends might roughly be divided into three categories, each of which has its own sub-categories and which sometimes cross-cuts and overlaps each other, as; trends concerning the content of the concept of the public service, trends concerning the provision methods of the public services and finally; trends concerning the language and ethos of the public services. However, it is compulsory to note that the distinguishing criteria of these tendencies are not clear enough to make exact categorization. In most cases, more than one tendency can exist together and they might crosscut each other. Furthermore, all of these tendencies represent any form of shrinking crisis and market-oriented transformation of the domain of public services. Therefore, any inclination of public service might be placed under another title. Throughout the study, new trends in the domain of the public services will be elaborated on drawing upon Karahanoğulları’s (2003) formulation, who states five trends as shrinking (=daralma), marketization (=piyasaya benzeme), fragmentation (=parçalanma), re-composition (=kayma) and de-budgetization (=fakirleşme). In this

study, three new trends, which are thought to describe changes in a more detailed way, have been added to Karahanoğulları's formulation and a categorization of them will be presented in order to systematize these trends in terms of their reflections in related fields.

4.2.1. Trends Concerning the Content of the Concept of Public Service

With the new interpretation of the concept of public service, the content of public service has undergone a radical transformation. The realm of public service has shrunk and public services have begun to be considered as the only core functions of state composed of maintenance of law and order due to the transfer of many of the public services to the private sector. These tendencies related to the content of the concept of public service comprise three sub-categories namely, shrinking, re-composition and de-budgetization.

4.2.1.1. Shrinking of the Domain of the Public Services

As explained above, services provided by the state constitute the domain of public services. Throughout the social welfare state era, as a result of interventionist role of state, the scope of the domain of the public services expanded. The challenges and changes emerging in the role of state and public sector since the late 1970s have significant implications for the domain of public services due to its advocacy for expanding the private sector in favor of shrinking public sector and lowering public expenditures that were used for the fulfillment of public services. Critics towards the public sector and the accepted role of state in the provision of public services have resulted in re-definition of its role that in turn re-shapes public administration and the concept of public service. In responding to such changes, the role and size of state was slimmed down, public sector was reduced in scope and commercial practices from private sector were introduced. Particularly, with the impacts of neo-liberal

policies and its ideological base of new right, the public sector was perceived as inefficient and wasteful whereas free market is accepted as a more efficient and productive method of allocating resources in society and promoting individuals' rights and freedoms. Thus, centralized and expansive public bureaucracies have begun to be replaced by competitive free market. Expansion of the private sector by shrinking the public sector and the reduction of the role of state in economy and society have been limited the role of government as maintenance of law and order and providing the enabling environment for the capital accumulation. After this recent transition towards a market-driven mode of public services, there have been comprehensive privatizations as well as liquidation of welfare state institutions that ended with decrease in the level of public services provided by the state. Since the early 1980s, there have been critical attacks on the size and capability of the public sector. According to Hughes (1998: 9), there are three parts to this attack on the public sector. First, the scale of the public sector have become target of criticisms, with arguments made that governments were too large, consuming scarce resources. Therefore, cuts to government spending and decrease in the level of public services have occurred almost universally even in the European countries such as Germany and France "where the public services have traditionally been large". Secondly, the scope of the government in economic activities has been criticized. In response to this, "many formerly governmental activities were returned to the private sector" through privatization, either by contract or direct sale. Thirdly, the methods of government based on provision by bureaucratic means were regarded as the source of inefficiency and unproductivity. This has paved the way for private sector participation in the provision of the public services. Thus, the scope of the domain of public services has begun to shrink and the content of the concept of the public service has eroded.

The content of shrinking exhibits itself particularly in privatization, which is considered as an important policy tool for decreasing the functions of the state and imposing market forces into these functions, having serious implications for the public services undertaken by these enterprises previously. In a way, the transformation debate of the concept of public service is perceived identical with the

privatization. Although in the scope of this study, details of the privatization will not be analyzed, only related issues will be touched upon; related to transformation in the concept of the public service.

4.2.1.1.1. Privatization

Privatization, which is a multi-faced term having several distinct meanings of changing relationship between public and private, refers to number of changes concerning the public sector activities. In general, privatization might be defined as “the act of reducing the role of government, or increasing the role of private sector, in an activity or in the ownership of assets” (Savas, 1987:3). However, the term privatization comprises a broader meaning such as contracting, liberalization and deregulation. First, it means sale of publicly owned assets to private initiatives. In this sense, privatization refers to the transferring of ownership from public to private sector. With this transfer, the former nationalized industries and public corporations which used to provide public services such as water, gas, electricity and telecommunication have been devolved to the private sector. “Second, some public services have been deregulated in an attempt to reduce monopolistic tendencies and subject them to competition”. “Third is the contracting out of the delivery of some public services to private and voluntary organizations”. Fourth, government’s opting out of some services (service shedding). In this case, these services become self-governing institutions escaping the influence and regulation of public authorities. Fifth, introduction of private sector techniques to the public sector might be regarded as a form of privatization (Henry, 1997: 7).

In terms of shrinking tendency in the domain of public services, sale of the ownership of public enterprises to the private initiatives and service shedding, have significant implications because with these types of privatization, character of the activities, provided by these enterprises previously, changes. According to these, the activities, which used to be fulfilled by public sector, have been included in the

domain of private market and become functions of private initiatives, which resulted in shrinking of the domain of public services.

Service shedding is the purest form of privatization and the essence of it represents itself in the reduction of the size and scope of the government (Fixler, 1991: 39). In the case of service shedding, state relinquishes the provision of any public goods and services, either in part or in whole. The relinquished service might begin to be provided by private sector initiatives or this service can be liquidated entirely. The aim of service shedding is decreasing the public sector burden on the budget. However, abrogation of any service can cause negative outcomes particularly on the employees of the relinquished organizations. In many cases, these organizations were liquidated in the expense of social and economic security of public employees which in turn would prompt other socio-economic problems such as unemployment and impoverishment.

The most common form of privatization is sale of publicly owned assets, engaged in the production of the basic goods and services, to private investors. State economic enterprises have played a pivotal role in building the infrastructures necessary for national development; “they have been the engines of economic and social development in both industrialized and developing nations”. Public enterprises provide many services including; utilities such as telecommunication, electricity, gas, water, transport and financial services. Public enterprises are particularly important in terms of shrinking tendency of the domain of the public services because privatization of public enterprises has serious implications for the scope of government and public sector as a whole. Despite their significant contributions, they have become the target of privatization by conservative, right-wing governments, which have imposed their policies on developing and less-developed nations as well. Thus, the wave of privatization has found widespread repercussions even in labor party government such as Australia and New Zealand. Although some scholars and experts have warned about negative consequences of privatization, it has been perceived as a panacea for all the pathological implications of the bureaucracy and public sector consisting of negligence, delay, red tape, unproductivity, and inefficiency (Farazmand, 1996:551). Public enterprises were the

first target of those aiming to reduce the size of the public sector in 1980s. As discussed before, there has been a worldwide trend towards reducing all forms of government involvement in the socio-economic activities and this trend has particularly affected public enterprises. Since the early 1980s, there occurred an extensive and continuing programme of sale of public enterprises pioneered by United Kingdom under the leadership of Thatcher (for instance; the sale of British Petroleum in October 1979 and British Telecom in November 1984) having distorting effects on publicness of the services undertaken by these enterprises previously.

In Turkey, the first wave of transformation that emerged on the axis of privatization has gained prominence in the post-1980 period as a part of liberal economic policies of the Motherland Party founded by Turgut Özal. In the political programme of the MP, privatization was emphasized as a way for realizing popular capitalism by enabling people's participation into ownership of public enterprises and decision-making process. Privatization was also presented as a step for promoting democracy through extended participation of people. In order to implement a formalized privatization process, legal framework was constructed. In 1984, the first regulations law number 2983 and in 1986 law number 3291 were enacted. In addition, the Özal government with the intention of implementing privatization decided to draw a master plan. Morgan Guarantee Trust Company was delegated with the master plan. According to this plan, state economic enterprises were categorized into three groups in terms of their priorities. However, the privatization process was occurred in an irregular way and only a small number of public enterprises were privatized (Aksoy, 1994:112). After some small-scale privatization cases, the privatization initiatives were accelerated in 1989. In 1994, with the establishment Prime Ministry Privatization Administration (Başbakanlık Özelleştirme İdaresi Başkanlığı) and the President of the Prime Minister's Privatization High Council (Başbakanlık Özelleştirme Yüksek Kurulu), privatization has been steadily increasing including lots of public enterprises such as Sümerbank, Teletaş, Çitosan, which are actively involved in sectors of banking, textile, transportation, communication and production of some basic goods. These

enterprises were sold all or in part and by directly or in stock market (Bozlağan, 2003:288). However, almost all the privatizations were challenged by the constitution. This has paved the way for 1999 constitution amendments. The Turkish government introduced amendments to three articles of the Constitution in 14th August 1999 by law number 4446. “The first is Article 125 on recourse to judicial review being available to all with regard to all acts and proceedings of administration”²¹. By this amendment, “judicial power is limited to the determination of the conformity of the acts and proceedings of the administration with law.” “The second amended article is 155 deals with the *Danıştay* as the administrative court of last resort for reviewing decisions rendered by administrative courts”²². The third is Article 47 whose title has been changed from Nationalization to Nationalization and Privatization. Two new paragraphs on privatization were added to the existing paragraphs²³. This is the first article to appear in Turkish Constitution on the subject of privatization and is a reaction to the decisions of The *Danıştay* and the Constitutional Court “which were seen as detrimental to the efforts to privatize number of public services” (Örücü, 2000: 347). This article has also enabled the legislation to allow private provision of the public services through the private law contracts (Ulusoy, 2004:66). “When considered together, the three amended Articles could have serious implications for the notion of ‘public service’ and the signing and performance of ‘public service concession contracts’”. As the scrutiny of the *Danıştay* has been removed, “the *Danıştay* has been left out the process. It will not be able to scrutinize the multinational concession contracts but will only give opinions on their accordance with ‘public interest’” and any sanctions attached the Court can only make a recommendation. In addition the concept of privatization has been

²¹ The amended paragraph reads: “Disputes arising out of procurements and concession contracts related to public services may be resolved by national and international arbitration. International arbitration can only be opted for in conflicts involving a foreign element” (Örücü, 2000:346).

²² The amended paragraph reads: “The *Danıştay* has the duty to deal with cases, to express within two months its opinion on draft laws sent to it by the Prime Minister and the Council Ministers and the specifications and contracts related to public service concessions, to examine draft regulations, to resolve administrative disputes and to discharge other duties as prescribed by law” (Örücü,2000:346).

²³ The new paragraphs read: “The fundamentals and the procedures of the privatization of enterprises and the property owned by the state, the public economic enterprises and other public bodies are regulated by law. Which of the investments and services undertaken by the state, public economic enterprises or other public bodies can be undertaken by private individuals or legal entities or transferred to these under private law contracts will be determined by law” (Örücü,2000:347).

introduced into the Constitution and the international arbitration has been legalized (Örücü, 2000:351-352) having distorting impacts on the government provision of the public services and the scope of judicial review. With the recent constitutional amendments, affecting privatization, public service concession contracts, international arbitration and the role of administrative courts, the constitutional framework of the shrinking and marketization of the domain of public services has been legalized.

As stated in official web site of Prime Ministry Privatization Administration, “since 1985, state shares in 244 companies, 4 power generators, 22 incomplete plants, 29 energy generation and distribution units and 5 real estates have been taken into scope of privatization portfolio. Later, 23 of these companies and 4 power generators and 4 real estates were excluded from the portfolio for various reasons”²⁴ As a result of privatization process in Turkey²⁵;

- * State completely withdrew from cement, animal feed production, milk-diary products, forest products, civil handling and catering services and petroleum distribution sectors

- * State has partially withdrawn from the ports and petroleum refinery sector

- *Privatization of public banks has commenced with Sumerbank and continued with Etibank, Denizbank and Anadolu Bank. In May 1998, the international and domestic offering of the 12.3 % state shares in Is Bank was completed. (....)

- * Public shares in many companies were issues to the public, particularly in the beginning of this decade and this enhanced the institutionalization of Istanbul Stock Exchange²⁶

Thus, formerly governmental activities such as electricity, gas, water aiming at fulfillment of public services have been transferred to the domain of the private sector losing their public service characters. Services, which used to be provided as public services, have become purchasable goods in merchandise and citizens, who utilize public services, have been considered as the customers.

²⁴ [http: www.oib.gov.tr/ program/uygulamalar/completely_privatized.htm](http://www.oib.gov.tr/program/uygulamalar/completely_privatized.htm)

²⁵ currently, there are 31 companies and some real estates in the portfolio and 21 of these companies have more than % 50 state shares.

²⁶ http://www.oib.gov.tr/portfoy/1985-2003_portfolio.htm

Although some argue that even if these activities have begun to be provided by the private sector, they are still public services (i.e. Çal, 2002:181, Gözler, 2003:338); these activities cannot be deemed as public services because of the nature of private sector based on profit maximization. After the transition to the domain of the private sector, publicness and/or public quality of these activities, which inherently constitute ontological premises of being public service, vanish and they lost public service characters.

To sum up, as a result of privatization, aimed at decreasing the role and size of state in economy and politics, states have begun to abandon their classical roles consisting of public services and relinquished the realm of the public service in favor of private sector. The scope of the public sector has declined due to a considerable transfer of public assets to the private sector through privatization which also has serious adverse impacts on the domain of the public services in terms of its reduced financial and personnel capacity to carry out public services.

4.2.1.2. Re-composition of the Public Services

As explained above, the domain of the public services has experienced a shrinking process as reflected and analyzed through privatization practice. As a result of this, the number of services provided by state has decreased due to the transfer of these services to the private sector through privatization. In addition, a dramatic change has also occurred in the composition of services that remained in the domain of the state. The content of the public services has shifted according to which direct provision activities of state have decreased whereas regulation activities have increased. According to this, while the government has reduced the role of public sector in direct provision, it has given an increased emphasis to regulation (Ayanoğlu, 2003:67). In the United Kingdom, each of the major privatizations of public utilities has been accompanied by the creation of a regulatory agency. The Audit Commission has played an extensive regulatory role. White Paper on the Citizen's Charter also lays emphasis on the role of regulation and inspection where

previously inspection and regulation have been carried out by the same organizations that provided the service. (Stewart and Walsh, 1992:508).

The recent changes caused by neo liberal policies have reconfigured the role and structure of state. In that period, much of the changes pursued under the notion of deregulation did not involve the complete withdrawal of state in socio-economic activities. While shedding some of its traditional functions, the state has undertaken new roles through regulation and co-ordination of economic management (Jayasuriya, 2001:101) which in turn brought about a new type of state called regulatory state. The term regulation means “using laws made by government to affect the private economy in some way”. In this respect, “ regulation essentially involves allowing or prohibiting activity in the economy through legal system, e.g. setting tariffs, granting licenses or permits” (Hughes, 1998: 88-89). Regulatory function of state represents any kind of state intervention. However, the regulation, emerged with the impact of neo liberal policies, does not aim to be an alternative to market. In essence, as McGowan and Wallace (1996:563) points out, the regulatory state is “likely to intervene to underpin the market rather than replace markets; it is concerned to make markets work better and thus to compensate or substitute where markets fail”. Therefore, such kind of regulation is called as re-regulation so as to underline difference between traditional regulation function of state which gained prominence within the welfare state practice (Bağımsız Sosyal Bilimciler, 2005, Praksis 9, 2003). The term regulatory state, emerged in the re-regulation era, has particularly gained popularity after the publication of OECD’s Regulatory Reform Program in 1997 and become prevalent institution all over the world. According to this report, regulatory state was envisaged as efficient, effective, flexible apparatus which is amenable global changes dominated by neo liberal policies. The role of regulatory state is thought as coordination, supervision and control in order to provide security of financial market. In this regard, lots of laws were enacted so as to constitute institutional and legal framework most of which were ideologically propelled and driven by the neo liberal policies (Bayramoğlu, 2003: 152). This new role assigned to state might also be seen in the Public Administration Law. According to article 6(a), (b), (c), (d), the duties of the central government

concerning the public services are arranged as policy making, setting standards, coordination and auditing.

In addition to the spread of neo-liberal policies, dissemination of New Public Management and related approaches, in particular “reinventing government” (or entrepreneurial government), have also aimed at replacing existing government with a market-friendly one based on the motto of ‘steering rather than rowing’. The process of “reinvention” put greater emphasis on redefining state functions by separating core policy-making activities and direction of residual delivery function. As a result of this process, the role of state has transformed into an enabling organization, responsible for ensuring that public services are delivered, rather than producing them directly itself (Deakin and Walsh, 1996: 33). In terms of the public services, the role of this new type of state was limited to more indirect functions such as regulating, monitoring and evaluating of market-friendly activities with a catalyzing role by setting standards rather than direct production and distribution of public goods and services. Parallel to this, governance can also be considered in the context of enabler state with regard to its high emphasis on the participation of different actors into the decision making of public issues and provision of the public services. It encourages public-private partnerships in the delivery of public services and assumes a role for the civil society organizations and non-governmental organization in the decision making process. Governance considers state to use new tools and techniques to steer and guide. Hence, the new role of state within the governance context can be described as an enabler rather than direct providers of the public services. One significant exemplar of emergence of this new state form is the growing importance of independent regulatory agencies. Alongside privatization of formerly government provided services, the government has thought fit to maintain them in a regulatory framework by creating new regulatory agencies to monitor their activities (for instance in the UK, the Office of Electricity Regulation, Office of Telecommunications) (Henry,1997:7). With the establishment of independent regulatory agencies (IRAs), the regulation function of state has been revolved to autonomous agencies, regulating the operation of the sectors within the market principles, from ministries. IRAs were established in order to purify market from the

influence of politics and make economy a technical issue because state was thought to be engaged in the monitoring and regulating activities in order to provide well functioning of the markets instead of direct production and provision activities. By this way, IRAs are considered to be instruments of maintenance of competitive market and adjustment to the international economy. In Turkey, except for existence of three exceptions,²⁷ the number of the IRAs has experienced sharp increase after 1999 due to the various reasons such as successive economic crises, the impact of international agencies and integration to the European Union. In such circumstances, number of IRAs was established in crucial economic sectors such as banking, telecommunication and energy²⁸. In these sectors, some of the activities of the state that used to have public service characters were abolished and private provision was made possible in these formerly monopolistic sectors. Hence, the role of the state has evolved from direct provision to an enabling one. Following this, new regulated markets have been constituted for these sectors under the supervision and control of IRAs. IRAs, which are endowed with comprehensive duties and powers as issuing regulation and rules about their policy areas implementing policies and controlling the application of regulations, imposing sanctions, have emerged as a different organizational type in the Turkish administrative system (Sönmez, Ü., 2004:166). With the establishment of these new organizations, classical organizational form of public services, based on hierarchical structure, and its functioning have changed according to which state has undertaken a new role in the provision of the public services. Thus, result has been re-composition of the public services as a consequence of which direct provision activities of the state has decreased in favor of regulatory functions based on indirect control rather than direct ownership and control.

In terms of re-composition of the public services, besides the emergence of this new role of state based on regulation rather than direct production and provision

²⁷ Capital Market Board (1981), Higher Board of Radio and Television (1994), Competition Agency (1994)

²⁸ Banking Regulation and Supervision Agency (1999), Telecommunications Agency (2000), Energy Market Regulatory Agency (2001), Sugar Agency (2001), Tobacco, Tobacco Products and Alcoholic Beverages Market Regulation Agency (2002), Public Procurement Agency (2002)

in the domain of the public services, some of the scholars argued that privatization process itself has created new roles such as regulation (currency, prices, banking, licensing), administration,(law, property rights), enforcement (police, surveillance), extraction (taxation, information gathering) and distribution (transfers, insurance) that require a different set of governmental activities (Haque, 1996: 201). Paradoxically, the privatization activity of state has been carried out of by the state as a public service. In order to oversee the recently privatized enterprises and expansive market forces, there have emerged other government organizations. For instance, Prime Ministry Privatization Administration has been organized as a public institution that was assigned to fulfill a kind of public service²⁹. Moreover, Haque (1996:201) asserts that “within the context of privatization, there has been a structural change (rather than reduction) in the composition of government budget and resource allocation in favor of private capital”. As argued by Haque (1996), there has been a structural change in the composition of the content of the public services within the context of transformation of the concept of the public service.

To sum up, public services used to play an active role to respond societal demands within the framework of the social welfare state but since the early 1980s, there has been a considerable shift in the role of public services from such an active engagement to a more indirect, supporting function of facilitating the private sector initiatives. This transition has increased the role of private sector in the provision of the public services which marginalized the role of public sector. As a result of this trend towards a weaker and more indirect role of public services, classical understanding of the concept of public service has changed with respect to changing composition of the content of the public services. Although some regulating functions and participating role in public policy making were given to the state played a countervailing tendency against the reduced size and significance of the public service this is not meant an the increase in the scope and depth of the public service at all.

²⁹ see, the article 4/m Law Concerning Arrangements for the Implementation of Privatization numbered 4046

4.2.1.3. De-budgetization Tendency in the Public Services

Within the welfare state era, states undertook many social, economic functions which were resulted in expansion in the scope of the public services. Such an expansion of the public services created a large public sector which might be characterized by large number of public employees and increased amount of public expenditures. In the 1970s, public sector, increased public expenditures and cost of public services have been criticized as the reasons of economic and fiscal crises. This argument was reinforced by the basic tenets of public choice theory, new public management and related approaches which favor market vis-à-vis state intervention. Basic assumption of these approaches is that government provision is wasteful, inefficient and ineffective way of public service delivery and therefore the activities of the state should be slimmed down by imposing private sector and market values. Parallel to this discourse, pro-market reforms, by which the size of the public sector and the amount of public expenditures have been put under critical questioning, have become dominating in not only advanced capitalist societies but also in developing countries. With the spread of these reforms, privatization, marketization and deregulation have become crucial instruments to prevent expansion of the level of public services which was considered as a burden on the budget.

In Turkey, particularly after the 24 January Decisions, some measures have been introduced in order to reduce the size of the state and amount of the public expenditures under the title of structural adjustment which implied a new regime of accumulation. This new regime of accumulation, which has gone hand in hand with neo-liberal economic policies, brought about a new form of regulation which has been put into practice through the laws enacted by the government. According to this new accumulation regime based on superiority of free market, state relinquished its previous responsibilities of maintaining full employment and providing development through import substitution economy and inclined towards a new role that might be characterized by liberalization and marketization. Particularly, after the April 1994, November 2000 and February 2001 crises, the necessity of slimming public sector by cutting down public expenditures and retrenchment of public employees has been

underlined in the government programs as an influential solution to overcome crises. This has also been reinforced by the influence of international financial agencies and national business elites. The stand-by agreements that were signed with IMF, credit agreements acted with WB, which imposed policy proposal that ensure marketization of public sector and financial liberalization has had critical implication on the public sector and public finance. In addition, national capital groups such as TÜSİAD and TOBB has published number of documents concerning the restructuring of state and public sector through slimming the size of state and cutting down public expenditures which were interpreted as burden on state budget and therefore the reason of economic and fiscal crises. As a response to this, fiscal adjustment programs have been implemented which had transformative impacts on the structure of the public finance system which has been resulted in changes in the content of public budget.

Public finance includes public spending and public income systems. Public expenditures consist of production of public goods and services, payments to public employees and public investments whereas the major components of public revenues are mainly provided by taxes. With the new policy choice on public finance, there has been a shift from direct taxes composed of income taxes and institutions' taxes to indirect taxes consisting of value-added taxes and spending taxes having significant implications for various segments of society in terms of tax burdens they bear and public services they utilize (Pinar, 2004). This new financial system has been skeptical about public sector while favoring market by attributing intrinsic superiority to the private sector. In this process, the tax burden on the capital has been diminished by the means of tax exemptions and exceptions. The budget deficit resulted from decrease in the taxes has been compensated by the debts provided by international agencies and national capital groups. Public budget has been allocated payments of public debts and their interests which has created a debt-oriented budget rather than public service provision (Sönmez, S. 2004:266, Oyan, 2000).

Beginning from 1980, despite the existence of exceptions the ratio of expenditures on education and health services to general budget has a tendency of decreasing. Since the public services have been considered as a burden on the

budget, former financing model based on general budget was abandoned. This was substituted by the individual payments. This gave birth the revolving fund case, on which hospitals can sustain their functions, in health sector and tuition fee case, by which the service is financed by the personal contributions of the beneficiaries, in the education sector. This process has subjected the citizens to pay for services through the user fees that resulted in the commodification of the services (Sönmez, S.,2004, Oyan, 2000). In this regard, de-budgetization of public services contributes the marketization of the public services.

This also found repercussion on the public personnel system according to which numbers of public employees and payments to them have been decreased. In this process, public expenditures on health insurance, subsidies for the unemployment, social security, industrial and regional development, contributions on education, housing have been reduced. All these have prevented proper functioning of the public services due to inadequacy of the budget and personnel and given way to the shrinking of the public services.

This policy choice has been justified on the basis of providing efficiency, effectiveness and economy of government so as to prevent wastefulness. Moreover, the basic tenets of new public management, reinventing government, and public choice theory, which are critical about the size of the public sector, have been used in legitimatizing instrument of the reducing budget of public agencies and downsizing civil service. According to these, traditional structure was inefficient and ineffective manner of providing goods and services. Therefore, government should relinquish its welfare functions of redistribution provided by the provision of the public services and tax policies and should be less costly. In this regard, in order to create new revenues, states should try to earn money from the provision of the public services instead of making expenditure on them. As a response to these, firstly, public enterprises have been privatized and market values have been introduced in the provision of the public services in order to provide efficiency, effectiveness and economy of the public sector.

In line with the shift in the budget policy, there has been a considerable change in the public character of the public services because of the diminishing level of

public services that resulted from budget constraints and substitution of government provision by market and exclusion of citizens who cannot pay for the public services.

4.2.2. Trends Concerning the Methods of the Provision of the Public Services

States have several types of delivery methods to provide public goods and services from direct provision to allowing other social organizations. In deciding for the provision of any public service, governments may contract it out or join with private or voluntary organizations in some form of joint delivery. In this regard, provision of the public services might be centralized within the public bureaucracy or opened up to private initiatives. According to Caiden (1982: 129-131), governments have seven different systems to meet public demands as follows;

Voluntarism: Individuals offer their services without regard to compensation, reward or profit. They do so with a good heart. Traditional societies rely on voluntarism to supply public goods and services. The drawback is supplier is free to offer and withdraw in provision according to its own convenience. Therefore, voluntarism is often uncertain, unreliable, uneven and too risky to meet demands of modern society. However, it can be useful in emergency services such as earthquake and fire (1982:129).

Market Place: In this way individuals obtain goods and services by the means of an exchange or transaction whenever they pay the price. Therefore, the wealthy get what they want whereas many potential users might be excluded from benefiting unless they pay the price. Nevertheless, all societies rely on the market place to meet a certain proportion of community needs, to widen competition between public and private (1982:129-130). However, as a result of market-driven transformation of the concept of the public service, the weight of the private sector has increased.

Other Domestic Governments: Public authorities can allow others to deliver public services within their jurisdiction. For instance, in federal systems, federal agencies delegate to regional and local governments in order to provide public

services. In this system, intergovernmental relations can become quite complicated and responsibility may be difficult to identify which lead to accountability problem (1982: 130).

Public Enterprise: In this case, public services are delivered by self-contained public businesses which are expected to cover their costs from sales and make a return on their investments. Public enterprises are thought to avoid the rigidities of the public bureaucracy but they may exploit their peculiar governmental status and escape competitive pressures (1982:130).

Private Contractors: In this system, governments contract the services out to private initiatives by the contracts details of which will be analyzed in the marketization debate of the public services (1982:131).

Third Sector Organizations: The public service delivery can also be fulfilled by non-profit private or quasi-autonomous non-governmental organizations (1982:131).

Despite the existence of slight differences among scholars, in the Turkish administrative law literature, based on the administrative tenets of the French model, provision methods of the public services are classified into two main categories as provision by the public sector and the private sector. These categories have also sub-categories. According to Gözler (2003:344), who prefers the term “management of the public services” to refer to provision of the public services, deciding the method of the provision of the public services is a technical issue and the public agencies are free to choose any method in their jurisdiction . However, as stated by Caiden (1982, 131) reflecting differences in circumstances, resources, cultural values, social objectives and political systems governments are influenced by different sets of variables in deciding whether to provide public goods and services directly themselves or to allow other social organizations to meet social demands. According to Caiden (1982: 131-135), the important determining factors are lack of alternatives, maintenance of control, economy, quality of service, perception of time span, size of activity, secrecy, time lag, conflicts of interest and political ideology. Although all these factors have impacts in varying degrees, the political ideology of state and its economic system are more influential because contemporary happenings in economy

and politics resulted from ideological preference of state are the most dominating factors in the role and size of the state and accordingly scope and method of the public services. For example, rightist governments favor alternative delivery systems based on public/private partnership while leftist governments prefer direct government delivery through public agencies (Caiden, 1982: 135). In the time dimension, the concept of the public service have undergone different types of transformation named expansion and shrinking crises which were shaped by different state types namely, night-watchman state, social welfare state, minimal state and finally regulatory state. Hence, it can be concluded that as well as scope and content of the public services, the method of the provision is mainly determined by the type of the state, which implies different patterns of provision.

4.2.2.1. Provision Methods of the Public Services

As stated by Ataay (2005:66), to decide to the provision method of the public is so critical that different types of public service approaches come into being as different methods of public service provision. For Ataay (2005:19), the provision methods of public services, which represent different approaches to the concept of public service, can be categorized as follows;

- a) provision by state financing from state budget,
 - b) provision by government but financing by pricing mechanism,
 - c) provision by private initiatives financing by pricing,
 - d) provision by private initiatives but financing from state budget or social funds.
- For Ataay (2004:20), with respect to supplier of the services, the first two methods do not aim at getting profit whereas last two aim at profit maximization. On the other hand, using pricing as a financing mechanism has transformative impacts on the users of services since it makes citizens customers of the services. In the case of financing from state budget or social funds, the user contributes to the public expenditures indirectly by the means of taxes of social security premiums. Therefore,

the user of services is considered citizen having right to utilize and demand public services rather than customer who has to pay for the services.

Following Gözler (2003:341-411) and Karahanoğulları (2002:284-342), the concrete forms of the provision methods of public services might be listed as;

4.2.2.1.1. Provision by Government: There are two types of provision by government as follows;

a) Direct Provision by Government (Regie): In this case, public service is provided directly by the government that is accountable for this service within its own bureaucracy by the means of own personnel and budget. In this context, competent authorities consist of central state (by the means of ministries), local government namely special provincial administrations, municipalities and village administrations. Other public juristic persons are not authorized for the provision of the public services within the “regie” method. Almost all the administrative public services such as census, deed are provided with this method.

b) Provision by Public Agencies: Some of the public services are fulfilled by the public agencies that are established for the provision of specific public services rather than governments’ direct provision. Although these institutions are established by the government (state or local government) and have public juristic personality, they are autonomous and have independent budget that is allocated for the provision of the public services. For instance, PTT (Post Telephone, Telegraph) (in the domain of communication) and TÜBİTAK (Turkey Scientific and Technological Research Agency) (in the domain of scientific research) are establishes in order to provide some of the public services that have specific characters.

4.2.2.1.2. Provision by Private Initiatives: In some cases, public services are provided by private initiatives that are authorized by government. Authorization can be made by contract or just by directly assigning the task to a specific individual agency/organization. These also have sub-categories each of which will be explained briefly.

a) Authorization by Direct Assigning: In some cases, state and local governments enable private initiatives to fulfill some public services rather than direct provision or provision by public agencies. These are;

aa) Establishment of Private Juristic Person by Government: In this case, state or local governments establish a private juristic person (foundation, firm and association) by using public financial resources and enable them in the provision of any public service. Although these agencies are private initiatives, they have some exclusive rights resulted from public authority privileges and also bound by supervision of government. In Turkey, Social Aid and Solidarity Associations are under this statute.

ab) Method of License: Different from establishment procedure, in the license method, a new agency is not established but existing private initiatives are enabled by the government's authorization. Authorized initiative functions under the supervision of the government. For instance, private schools are run under the control of National Education Ministry although they operate by their own budget and personnel.

ac) In addition some association that function for the sake of public interest such as Turkish Air Agency, Turkish Education Agency provides public services after the authorization by the decision of the Council of Ministers.

b) Authorization by Contract: In this case, state and local governments enable private initiatives by contract namely public service concession, affirmance, joint regime and proxy.

ba) Public Service Concession Contracts: Concession is a form of constructing and operating a public service at their own gains and losses from the fees that it will get from users, according to a contract that a private initiative makes with a public authority. For instance, mobile telephones are run under the public service concession contracts.

bb) Affirmance: Affirmance is a form of operating a formerly constructed public service by a private initiative at its own gains and losses from the fees that it will get from users. Different from concession contracts, private initiative pay for this contract to public authority. In this case, private contractor operate formerly

constructed public service therefore do not make infrastructure investments. The duration of the affirmance contracts is shorter than concession contracts which are usually for forty years.

bc) Proxy: Like affirmance, proxy is a kind of operating method of formerly constructed public service. In this case, the gains and losses belong to public authority that authorized private initiative.

bd) Atypical Contracts: Until the 1999 amendments, the public service concession contract, which operate through the public law, was thought to be the only type of public service contracts. However, after the amendment of the article 47 of the Constitution, other types of contracts such as build-operate, build-operate-transfer that run under the regime of private law have been introduced into the public service provision. Thus, private sector participation into the delivery of the public services has increased.

In summary, public services may be delivered in a variety of ways. “Alternatives range from complete public provision to complete private provision or a mix of these two” (Kitchen, 2005:117). The recent transformation of the concept of the public service, molded by neo-liberal policies, has implied significant challenges and changes in the classical provision methods of the public services. According to this, provision methods of the public services have been diversified to enable the private sector and the market system to participate more and have a bigger role and share. Since the public sector cannot directly provide for all the services and its own needs, public services have involved private provision in varying degrees. Therefore, private providers have been employed in the provision of some of the services. However, with the recent transformation of the public services, the balance of power between public and private sectors has shifted to the private side destroying the ethos and priorities of the public services (Martin, 2003:2). Alternative delivery framework, which implies an overall marketization of the public services, has been justified on the ground of extending the reach and access and providing tools for improving efficiency, equity and strengthening institutions of accountability in public services (Kitchen, 2005: 121-122). Particularly, after the 1999 Constitutional amendments, which has legalized private provision of public services through the

private law contracts, and the enactment of the Law of Basic Principles of the Public Administration, this process has gained significant acceleration. In the following parts of the study, the new trends concerning the provision methods of the public services namely marketization, fragmentation, informalization and charitization will be explained giving examples from British experience and Turkish case.

4.2.2.2. Marketization

Traditional methods of public service delivery, based on hierarchical state bureaucracy, were criticized for monopolizing the delivery of the public services, becoming involved too many areas of activity, being inefficient and the causes of the problems were to be found in the nature, mode of operation and the management of bureaucracies (Huque, 2004:3). Due to expanding scope of activities, governments were blamed by consuming too many scarce resources. As stated by Deakin and Walsh (1996: 33), this approach has its roots in the new right and public choice theory asserting that in the absence of market disciplines the state cannot deliver services efficiently. In this regard, market is considered as a panacea to the public service provision as a tool for overcoming deficiencies of old bureaucratic model by promoting efficiency, economy, competition, variety, choice and flexibility. Along with neo-liberal policies, new public management and other related approaches have committed themselves to the development of more efficiency, effectiveness, economy, productivity and responsiveness in the public service provision. The major feature of the new type of public administration, subsumed under the title of new public management, in essence; is the introduction of market mechanisms to the domain of the public services. While this was first introduced in industrialized countries, notably in United Kingdom, in recent years it has increasingly been promoted in developing countries as well. The public sector reforms in both developed and developing countries driven by the neo-liberal policies on privatization, deregulation and liberalization, have aimed at cutting costs and reducing the role of the state in the provision of public service in favor of private

sector and voluntary organizations which lead a transformation in the way that public services operate. A part of this wider agenda attempts at injection of market disciplines into the public sector; public agencies have initiated efforts to increase productivity and to find alternative service delivery methods. Public sector management has concentrated on accountability and high performance and has been restructured towards redefine organizational missions and decentralize decision-making (Denhardt & Denhardt, 2000:550). According to Denhardt & Denhardt (2000:550), “the new public management refers to a cluster of ideas and practices (including reinvention and neomanagerialism) that seek, at their core, to use private sector and business approach in the public sector”. The common themes in the application of this new type of administrative reforms are that government should reduce their previous activities through privatization and contracting-out of public services to private and voluntary organizations in order to overcome inefficiency, ineffectiveness, wastefulness, unproductivity and non-responsiveness of public sector. Although introduction of market mechanisms seems to be a technical change in the way of public service delivery, this also means a transformation in the relationships between market and state, state and the bureaucracy, state and citizens.

In practice, the development of the market-based public service involves a number of changes: the separation of purchaser and providers; the development of contracts and quasi-contracts; and the operation of trading systems based on prices and user choice (Deakin & Walsh, 1996:36). In addition, competition, performance and quality management are central to the market-based management of the public service. Efficiency, effectiveness and accountability have been the key motivating forces behind these fundamental reforms. In Britain public sector, value for money has been the overriding consideration for the government concerned to reduce the level of public expenditure. Financial management systems have been initiated to ensure greater efficiency and effectiveness in securing policy objectives and meeting implementation targets (Austen, 1998: 4).

For Walsh (1995:xii), who calls recent changes as the marketization of the public services, the process of transformation involves two main strands: “the introduction of managerial techniques from the private sector, and the development

of market mechanisms within the public services”. According to this, firstly, a different set of institutions based on market system and private sector values have been constructed within the domain of public services and secondly, business practices have been adopted in the operation of the public services which triggered commercialization of the public services. The first strand of marketization of public services that implies market-like culture in the management of public services such as competition, performance management, quality system, market-based accountability, and over emphasis on efficiency, effectiveness, economy and productivity will be examined under another title in which changing language and ethos of public service culture will be evaluated critically. As a result of second strand of new public service management, alternative service methods, which were inspired by market mechanisms, have been developed. This trend has increased the role of private sector in the provision of public services while decreasing the role of the public sector creating an overall marketization in the domain of public services. In this section of the study, deals with marketization of public services, these new methods will be elaborated.

For Ataay (2005:20), marketization of the public services has embodied in two different forms. A central part of the development of market mechanisms within the public sector is the privatization of public services which brings about exclusion of the services from the status of public service. According to this, the legal status of the service changes, after this proceeding, this service becomes any private sector activity losing its public service character. As explained above, privatization is a multifaceted term having several distinct meanings of changing relationship between public and private. As stated by many scholars, “the means of privatization stretch from replacing public ownership with private ownership to the introduction of private management techniques into the public sector” (Lane,1993:146). In this regard, “privatization can be defined broadly as the transfer or sale of any asset, organization, function or activity from the public to private sector” (Awadalla, 2003: 36). The most popularly understood form of privatization that refers to sale of public enterprises to private sector and the method of service shedding, as a result of which privatized activity lose its public service characteristics. This kind of marketization

has been examined within the context of privatization, which implies a shrinking process in the domain of public services. Therefore, other phenomenon of marketization (Ataay, 2005:20) which brought about larger participation of private sector in the provision of public services will be elaborated on in a more detailed way in this part of the study. As the forms of marketization of the public service provision, the other methods of privatization such as user fees, contracting out, and public private partnerships in the delivery of public services, which imply alternative service delivery patterns, will be explained.

Firstly, although using price mechanisms may be difficult in public goods that are collectively consumed, it has been considered as the most appropriate instrument of the introduction of market mechanisms for the management of the public services. Since price makes possible the direct comparison between alternatives, it is seen as the most efficient mechanisms for enabling choices. Moreover, the use of money is perceived as a common measure to evaluate alternatives. The proponents of charging argue that if services are provided free of charge, people will use more than their needs, and there will be waste due to misallocation of resources (Walsh, 1995:83-84). Even some of the public services, which were traditionally seen inconvenient for charging, have been considered as a part of private sector activity that are suitable for the use of price mechanisms. In such cases, core activities of state consisted of national security, external and internal defense, maintenance of law and order are accepted as the public services that cannot be transformed to the private sector activities. However, services not appealing to the private sector thus undertaken by the state itself such as census, deed and services having social character such as education, health and social security and services that have natural monopoly character are under debate whether it is possible to charge for them or not. Some scholars argue that since such kind of public services are basic rights of citizens, these services aim to provide public interest therefore, these category of the services might not be charged (Ataay, 2005:35). In addition, to charge for some of the basic services such as education and health may be unethical because “basic health and basic education are considered fundamental human rights. The Universal Declaration of Human Rights asserts an individual’s right to a “standard of living adequate for

the health and well-being of himself and of his family, including ...medical care...[and a right to education that is]...free, at least in the elementary and fundamental stages” (Martin, 2004:10). Charging may also cause under-use of merit goods. The application of charging may lead exclusion of underprivileged citizens, who are not able to pay for the services, from the government provision of the services. As indicated in the New Public Management context, this approach considers all citizens as customers, but it neglects the disadvantaged or vulnerable groups. Thus, the result will be erosion of altruism, which constitutes basic motivate of public services, (Walsh, 1995:87) this in turn implies diminishing publicness of the public services because of the narrower composition of service recipients (Haque,2001:69). Moreover, it is difficult to determine the costs of many public services such as education and health because of the nature of the production process. However, some argue that due to the existence of personal benefiting and divisiveness of service utility, such kind of services might be charged for. For them, to deem these services as public service and finance them from the state budget cause injustice between people who use service directly and people who do not use services. A further argument about the use of pricing mechanism is the use of vouchers, which provide purchasing power to the user. According to this, vouchers might be appropriate instrument of redistribution of income via allowing disadvantaged to access services (Walsh, 1995: 83).

Charging is highly related with market-driven reforms described as new public management and it has become a popular toolkit of recent developments that public sector has faced. According to this, formerly free of charge services financed by government budget have begun to be provided in return to users’ payments. In fact, as stated in previous chapter, public services are not free of charge in pure form. Citizens pay for lots of public services as a benefiting premise such as electricity, gas and postal services. However, in this situation, the fee paid by beneficiaries is under the real cost of service and it does not aim at profit maximization. Missing amount of real cost is compensated by state via the means of redistribution instruments such as subsidy, tax policy, social security and public service provision. With the recent developments that resulted in charging of services, traditional notion of the concept

of the public service has gradually evolved “from the supply of a service to citizens at subsidized rates, towards the sale of a commodity to consumers on a full cost-recovery basis” (Bakker, 2001:143). In this regard, public services have become purchasable goods. By this way, it is aimed at to give beneficiaries of the public services the ability to act as customers with extended choices. For instance, The Citizen’s Charter in the UK conceives the citizens as a group of atomistic consumers. According to this, citizens have been considered as clients, users and customers rather than public having right to demand services. Furthermore, empowerment of customers was claimed to stimulate the competition according to which efficiency of the service would increase. As a result of broader involvement of private sector organizations, which strive for profit maximization, in the delivery of public services, more services are charged for as well as ordinary level of prices of formerly charged services have increased.

Secondly, the other key mechanism for changing public service management through marketization is the contracting out of provision of public services to the private, voluntary or non-profit sectors. With the contracting mechanisms, “any conceivable government service can be provided by contract, either externally through private or voluntary sector providers or internally with other parts of government” (Hughes, 1998:70). As stated by Hughes (1998:70), the essence of contract is to separate purchaser, whose responsibility is to define what is wanted, to let the contract, and to monitor performance, from provider, who delivers the agreed outputs and outcomes. In this sense, contract mechanisms represent a move from hierarchical form towards a market-based organization of the public services. Contracts, which constitute a broader part of marketization of public services, have been considered as the most popular alternative to full privatization. In the recent transformation of public services, the use of contract mechanism has found worldwide application not only countries with conservative governments but also social democratic regimes including many of the services varying in size and pattern. At the beginning, only support services or ancillary functions of any service such as catering, laundry and manual services, particularly environmental services such as refuse collection have been contracted out. However, in the last two decades the use

of contracting out has expanded covering provision of core services such as health and social care and professional services such as law and finance. Particularly, in Britain and The USA almost all the services provided by the state have been considered on contractual basis even prisons and justice system (Walsh, 1995:118). In Turkey, there are examples public services operating by contract mechanism. Particularly, ancillary functions of any service, for instance, catering and cleaning services of public organization are usually run on a procurement basis. Furthermore, the employment methods of public employees have changed from status based on permanent job security to short-term contract relation. With the intended new personnel regime in the public sector, the public sector is expected to employ few staff and operate almost wholly on contract basis. In the proposed draft law of the public personnel, the list bearing the number II specify the public employees who will work on the contractual base³⁰. According to these most of the former public servants such as teachers, doctors, nurses, who work within the basic public service organizations, are considered as the contractual employees. According to the article 6 of the draft law, contractual employment does not provide permanent job security for the employees. Hence, the new proposed personnel law might be considered as a part of marketization of the public services since it tries to make private sector model of employment as a norm.

The contract mechanism has been employed for a total service as well as one of its component parts. However, in practice, it tends to be used in the elements of any service being broken down so as to allow separate contracts or subcontracts, which will be examined in the context of fragmentation tendency of the domain of public services, due to the complexity of services (Walsh, 1995:115). The spread of contracting out method in the public sector has both brought benefits and problems. Although it emphasized flexibility in public service provision by moving from hierarchical bureaucratic organization it has created itself complex management systems. The contracting process is also prone to corruption and mismanagement. As stated by Huque (2004:12) with the contracting-out strategy, it is aimed to reduce

³⁰ the list bearing the number I specifies the public employees who are considered as public servants having permanent job security. The scope of this category is not broad, only core staff of public organization such as qaimaqam, controller, governor of a province

burden on government, to provide open competition and fair price. Though it has provided some benefits such as increasing specialization of services, responsiveness to users, it has lots of side effects particularly in developing countries such as added burden of regulatory arrangements, irregularity in tendering process, poor system of monitoring and creating cartels.

Another subject that should be taken into consideration in terms of marketization of the public services is the GATS (General Agreement on Trade in Services), which is aimed at constituting an international open market for all kinds of services. The detailed examination of the GATS process will not be made in the scope of the study due to comprehensive and multi-dimensional character of the issue³¹. After the establishment of World Trade Organization, which might be considered the new regulatory institution of capitalist system at the international level, the international trade of services has gained importance. In the constitutional agreement of WTO, many public services are not provided on a commercial or competitive basis and are not subject to the GATS. The agreement excludes all services provided in the exercise of governmental authority, which are defined in article I:3(c) as those supplied neither on a commercial basis nor in competition with other suppliers. “The implication of GATS definition of governmental authority is that in providing some services on a commercial basis or in competition with other suppliers governments are exceeding their authority” (Martin, 2004: 9). For Martin (2004:9), the WTO’s formulation means that the market comes from first and governments should be defined by parameters of interests and possibilities and the role of politics should be defined by economics. In fact, at least theoretically, almost all the field of services could be provided on a commercial basis or in competition with other suppliers without government authority. In this regard, the main objective of the GATS is to subject to services such as education, banking, electricity and gas to a market process.

In conclusion, the argument for the introduction of market is that since state bureaucracy is too slow to respond and wasteful way of the public service provision, the use of market mechanisms provides efficiency, effectiveness and economy in the

21 See Güzelsarı,2003 for a detailed analysis of GATS

provision of public services. This broad argument suggests that the state will only be able to operate effectively if it was managed by the market because in the market, the system of prices and the exchange process allow individuals to make effective choices. The contracting-out mechanism is also seen as the instrument for efficient and responsive way of public service provision by the means of competition among providers. In this regard, marketization refers to a process in which the key market-like changes that have been introduced: charging, contracting, internal markets, and the creation of autonomous units. Although “it cannot be practiced in public administration in its pure form” (Huque,2004:6), the process of marketization brought about radical changes that impact on relationships between public and private which will be evaluated in the context of transforming nature of public service ethos.

4.2.2.3. Fragmentation

Traditionally, public services have been fulfilled by a monolithic organization performing the whole service either nationally or in each local area. These organizations have authority of overall management all held in the centre. With the recent market driven changes, traditional bureaucratic organizations and their monopoly in the provision of public services have been challenged. One of the effects of these changes has been breaking down any service into its component parts through replacing a single provider with a variety of possible providers which resulted in fragmentation of the public services.

The pattern of fragmentation can be considered at two levels: the public service itself and its organizational structure. At first level, any public service is divided into small parts as much as possible and each part is performed by different service provider by the means of contracting. In this case, core functions of services are fulfilled by the public sector organizations itself; support services or ancillary functions of any service such as catering, laundry and manual services are provided by other agencies rather than branches of public administration or the public sector

by the use of contracting-out mechanism. By the time, professional services and core services as in the case of health and education have undergone similar processes, as a result of which different service providers have been enabled to participate in the provision of public services and have a bigger role. At the second level, a shift to desegregation of units providing public services has occurred. This involves the breaking up large organizations into smaller units with delegated powers funded separately and dealing with different tasks. These new public service organizations are characterized by networks of organizations providing services on a contractual basis rather than integrated bureaucratic hierarchies (Walsh, 1995:196). The emergence of these new types of organizations prompted a differentiation either between or within organizations, which resulted in networks of organizations running through contract, and price instead of authority. Within these organizations, autonomy has increased in order to operate relatively free. Thus, result has been replacement of the concepts of unity, centralization and monopoly of public sector by present themes of decentralization, desegregation and plurality. The governance perspective also supports the increased involvement of private and voluntary sectors in the delivery of services that resulted in a fragmented structure of government composed of various institutions and organization. In such a fragmented form, it is likely to emerge self-governing networks, which raises difficulties in terms of accountability (Stoker, 1998:19). In this regard, governance as networks plays crucial role in the steering of these networks.

The intended outcome of this process is increasing competition, which is considered as a solution to many problems including red tape, big government, insensitivity to public needs and so forth, between alternative providers. Since the governments were criticized for monopolizing the delivery of public services and involving in too many areas of activity, the separation of the political and the operational levels of public organizations was proposed as an influential remedy in order to overcome dominance of producer. According to this, delivery of the services should be carried out by different bodies as independent units, having control of their own budgets and acting in competition with one another, while the role of center, responsible for policy and strategic planning, is defined as planning, setting targets,

allocating resources and monitoring performance. In UK, Next Step Agencies has just that effect. This initiative derives from the report by the Efficiency Unit on Improving Management in Government. With The Next Steps Initiative, it is proposed that the executive functions of central government should be transferred to agencies charged with specific tasks. The main objectives and performance targets of these agencies are defined in Framework Documents (1988) designed to achieve government policy as defined by the minister (Stewart and Walsh, 1992: 501). In this process, a large number of agencies have been established and services and functions were “hived off” from government departments to executive agencies having greater management freedom to achieve their performance targets (Henry, 1997:10). The case of competitive tendering in UK has also similar impact. According to this, local authorities are encouraged to use alternative provision methods through opting out or devolved control and budget. Thus, policy formulation and implementation are clearly separated which resulted in differentiated pattern of public service provision through new types of organizations.

In Turkey, before the public administration reform of the JDP government enacted in 2003, the centralized nature of administrative structure was based on the French model. Local government was relatively weak and dependent on central government. In the service delivery, there was uniformity since public services were provided through uniform structures established throughout the country, operating as a single aggregate unit controlled by capital. After the reform movement in public administration, the division of authority between central government and local government has changed in favor of local government. While the role of central government was limited as the policymaking, setting standards and auditing, the essential role was assigned to the local government on the pretext of providing democracy and participation of large segments of society in decision-making and delivery of the public services. In the article 5(e) of the law, which arranges basic principles of establishment and operation of the public administration, states that “duty, authority and responsibility are give to the unit which is the nearest of the users”. In addition, the article 11 titled provision of the public services encourages devolution of the delivery of public services to the universities, chambers, private

sector and civil society organizations. Hence, it might be concluded that with The Law of Public Administration, uniform and centralized form has shifted towards more decentralized and fragmented structure in the provision of public services. Following 'reform' movements, provision methods of the public services have been diversified to enable the private sector and the market system to participate and have a bigger role.

It is clear that this process can be regarded as the symptoms of new public management. The new public management has a considerable impact on patterns of organization. Formerly Weberian organizations, formed along hierarchical bureaucratic tradition, have become more differentiated through being broken down into smaller independent units, purchaser/provider split and increasing operational autonomy in the public service provision. In this process, centralized structures evolved to decentralized form, which brought about networks of organizations that operate through contract and price mechanisms rather than authority. According to Deakin and Walsh (1996: 36), the approach in this process is one of centralization and decentralization at the same time; centralization of the setting of the parameters within which the system works and decentralization of operational management. With the dispersal of power among various actors such as public agencies and private enterprises, resulted from fragmentation in the public services, the values such as democracy, accountability and participation was intended to replace former corporate and centralist structure. By this way, it is aimed to provide specialization and flexibility in the public service provision. This idea was consolidated by the subsidiarity principle of Maastricht Treaty, which require administrative decisions to be made at the level nearest the users of the services.

All these organizational changes in the public sector might also be regarded as an outcome of broader post-Fordist restructuring process that became increasingly strong from the late 1980s. According to post-Fordist approach, the organization should be fragmented and each constituent part or unit should deal with detailed works. This kind of division has brought about horizontal division of work based on specialized and narrow skills. Contrary to former Fordist era, dominated by Taylorist methods and mass production of goods and services and vertical division of work

based on hierarchical authority, post-Fordist approach to the public services represent more fragmented, more privatized and more market-oriented form of public sector. (Painter,1997:55, Walsh, 1995:12). Despite the flexibility and specialization emphasis of new type of public service management characterized by fragmentation, this process caused greater complexity and confusion in the delivery of public services. Particularly, breaking with self-sufficient bureaucratic tradition and blurring the boundary between public and private that triggered another tendency in the domain of public services called informalization, which will be examined in the following part of the study.

In summary, fragmentation is a process in which tools such as breaking down a whole service into its component parts, organizational fragmentation, purchaser/provider split, and desegregation of authority describes the new pattern of public service provision fulfilled a variety of agencies, trading for profit through contracts and market process. Fragmentation of service itself and its organizational form were consolidated by “the fragmentation of the public into customers, users or clients” which in turn may erode the idea of public realm or public interest (Haque, 2001: 72).

4.2.2.4. Informalization

With the recent businesslike transformation, the role of state has undergone a market-based transformation through deregulation, privatization and liberalization. These trends, which gave birth to a new role for states, tended to downgrade the role played by governments in politics and economy in favor of private or voluntary agencies. Particularly, the active roles of governments in the delivery of public services have declined dramatically since the late 1980s. The gap, stemmed from the withdrawal of state in the provision of the public services, was filled by alternative service providers performing through market-oriented methods or voluntary ethics. In such a situation, private initiatives and in some cases civil society organizations have emerged as major service providers. This new type of service providers are

usually established as independent units, having control of their own policies. However, the organization of basic services such as health, education and social services, along with market-based and voluntary ground presents huge problems in terms of their formal public characters.

The boundaryless, hybrid and network form of organizations have emerged with the claim of allowing flexibility and choice, which are thought to improve user accessibility, in contrast to unified authority-based organizations. One of the critical issues for these agencies is how to provide coordination between them. More specifically, these institutions are “notoriously weak on coordination” as compared to hierarchically organized bureaucracy (Clayton, Oakley and Taylor, 2000:8). This coordination problem has lead to greater complexity and eroded clarity of provision process by destabilizing provision procedures. The growth of number of agencies - public, private, voluntary- that are involved in the provision of public services and fragmented structure of the domain of public services have created difficulties in determining who is responsible for provision. The difficulty is more apparent in the case of any disruption of delivery process in which there is no consistent policy and the users and providers are unclear. According to Stoker (1998:22), within the context of governance, which caused a shift in the responsibility of state through private and voluntary sectors and citizens, the responsibilities have been blurred. This has created an ambiguity and uncertainty in the minds of policy-makers and public about who is responsible when things go wrong. “The earlier public service functions and institutions related to the direct delivery of goods and services were relatively tangible, measurable, and verifiable, whereas its new indirect activities such as regulation, monitoring and evaluation, are quite difficult to verify due to their intangible nature” (Haque, 2001: 71). Thus, it might be concluded that the previous formal relationship between service providers and beneficiaries has been transformed through more informal relationship owing to this new type of public service management.

Another problem caused by alternative approach to public service provision is sustainability of the service delivery. The new type of providers, acting on voluntary ethic or profit maximization, have failed to provide timely and sufficient level of

public service because these institutions, operating in a limited area thus, many people do not benefit from them, aim to reach short-term goals while ignoring long-term social targets. However, the tradition of bureaucracy owing to its centralized and hierarchical structure is more steady and consistent in the public service delivery compared to private or voluntary provision. Furthermore, government provision, financed by tax income, provides more continuous basis than alternative providers dependent on grants and contracts. This situation has a potential hazard for the continuity principle, which is one of the ontological and classical premises of the concept of public service. As explained before, continuity principle is closely related to the rule of law and its foresight principle. According to this, public services should be continuous and uninterrupted in order to provide overall accessibility of all segments of society.

To sum up, after the proliferation of new actors in the domain of the public services, previous formal relationship between service providers and users has evolved into an informal base that has eroded clarity and continuity in the delivery of public services having distorting effects on public characteristics of the concept of public service.

4.2.2.5.Charitization

Introducing market process in public services has serious implications in terms of citizen/state relationships. Within this new market-oriented management, a variety of market mechanisms, in which the user of public services has a crucial role as customer or consumer, has been adopted. As a consequence of these, existing notion of citizenship based on rights-based approach has evolved into a new needs-based approach, which perceives citizens as customers/consumers or indigents.

Throughout welfare state, which was constructed on the basis of hierarchy, planning, self-sufficiency and centralization, the role of state as producer and distributor increased significantly in almost all societies. In this process, the scope of public service expanded through nationwide and uniform social programmes. During

the welfare state era, citizens were considered having social rights that provide full access to basic services such as education and health. Public services were perceived as social rights that give citizens right to demand from the state. In this respect, citizenship was defined on the ground of social rights (Arin, 1996:56). Beginning from the 1980s, such an expansive role of state and scope of the public services came under serious criticism with the rising impacts of neo-liberal policies and new right political theory. The idea behind these attacks was that public sector and government provision had become inefficient and unresponsive. In addition, increased level of public expenditures brought about by expanded social services was thought to be the reason of economic stagnation. According to neo-liberalism, these deficiencies could be overcome by introducing market forces into the provision of the public services, which has critical implications in terms of marketization of public services. On the other hand, besides the pro-market values, new right has also neo-conservative strand. In this context, new right critics asserted that, prevalence of welfare state has eroded traditional institutions such as family, religion and volunteering ethic by assuming functions previously carried out by these state-public institutions (Aksoy, 2003: 550). As a result of these critics, the role of government in the delivery of public services has declined dramatically. In classical new right terms, the public sector was reduced to the minimum role consistent with retaining residual protection for deserving poor (Deakin and Walsh, 1996: 34).

The provision of public services, relinquished by state, has been undertaken by the private sector acting in accordance with market values, which led marketization of public services. Apart from privatization and contracting-out, there has been extensive development of pricing and charging within public service organizations. With the impact of these developments, existing conception of public services has been replaced by a new approach that perceives public services as purchasable goods in merchandise rather than financed by tax funds. This form of provision has also proposed an alternative form of citizenship which make citizens into customer/consumer with choice rather than citizen having social rights as well as political and civil rights. These challenges to former public service and citizenship understanding were justified on the basis of participation and choice. According to

these, giving ability to citizens to act as customer with choices increased the level of participation which is a central part of democracy. Furthermore, it is asserted that this kind of citizenship was necessary to improve effective citizenship since customers with expanded choices rather than subjects of bureaucracy was claimed to be more just way of modern citizenship. In this context, the poor and disadvantaged, who cannot afford the price of public services, were proposed to be exempted from the paying for some basic services such as education and health. A further argument has proposed that this category might be enabled to act as customer through the use of vouchers.

In less developed countries, some of the basic services, previously administered by the state, have begun to be taken over by civil society organizations (here after CSOs) that perform on a volunteering ethic. CSOs are considered to be more effective than the public sector at reaching the poorest in developing countries. In practice, apart from various shortcomings, CSOs failed to provide efficient delivery of services (Clayton, Oakley and Taylor, 2000:7). In addition, this pattern of public service delivery considered the users of public services the indigents who take alms from the charity rather than citizens who have social rights to full access to public services (Oyan, 2004: 113, Ozansoy, 2000:35, Karahanoğulları, 2002:153). In this regard, modern notion of citizenship described on the basis of the concept of right (civil, political, social and cultural) has been eroded with the impact of new pattern of public service management.

Before the advent of the modern state, almost all governmental functions were performed by other social institutions or contracted out to private entrepreneurs. However, with the growing capability of the administrative state combined with the acceptance of notions of public interest, public trust, public responsibility and public ethics led most governments to reduce their dependency on other social institutions for delivering public goods and services. After the establishment of modern state, more and more activities were undertaken by the state to deliver them directly through public agencies (Caiden: 1982:141). In this regard, changes, which were proposed as reform in the public sector, represent a return to a pre-modern state era rather than bring about innovation in the public service management.

4.2.3. Trends Concerning the Ethos and Language of the Public Services

Since the public sector and direct government provision of the public services were claimed to be wasteful, inefficient and unresponsive, number of changes have been introduced into the role of state that resulted in shrinking of the scope and marketization of the methods of the public services in general. These changes have brought about radical transformation in the structure, culture and language of public administration as well as pattern of public services. This part of the study is going to concern with examining a cultural change in the public services that is the emergence of a market-oriented, business-like or private sector-inspired culture.

One of the important impacts of the transformation is the changing ethos of how services should be managed and delivered. A commercial culture, derive its basic assumptions and values from the practices, experiences and ethos of the private sector, has been developed. This new culture has inspired from the operation of the market and argues that exposure to competition could help governments reduce their size and cost. The market, working on the basis of demand and supply, would determine a fair price to be paid by customers for the public services (Huque, 2004:4). The argument for the introduction of the market process is that it increases both efficiency and productivity. In this process, alternative approaches for minimizing the role of the state based on not only failures of the state but also positive virtues of the market (Walsh, 1995: 61). Unlike traditional critics towards public sector, the new challenges have proposed to replace public bureaucracies by market forces as well as introducing structural, functional reforms (Haque, 1996:188). Furthermore, the ideological shift towards new right and the rise of neo-liberal policies embodied as marketization of public services played a crucial role in shaping policies such as privatization, deregulation, liberalization, subsidy cuts, which were considered a general solution for the weakness and problems of traditional bureaucracy and existing patterns of the public services. There was also a concern that public services should adopt a business-like approach based on private sector practices instead of traditional values and ethos. As stated by Haque

(2001:66), such challenges to traditional values have serious implications for the nature of public service itself in terms of the public characteristics of public services.

With the impact of these trends, pro-market values such as competitiveness, efficiency, productivity and profitability, which eroded the principles of public services, have become the dominant operational criteria in the domain of the public services. Traditional understanding of the public service was begun to be replaced by a new business-like ethos challenging traditional assumptions about the public services consisted of self-sufficiency, direct control, uniformity of provision, standardized procedures, dominance of hierarchical bureaucracy. Marketization has begun to replace these previous assumptions with the 3Es principles of new public management namely economy, efficiency and effectiveness. In Rouse's (1997:84) words, economy; entails the purchasing of inputs, defined as the resources used to produce a service or execute a policy, of a given quality specification at the lowest possible costs." Efficiency; "entails achieving the maximum possible output, which refers to the service produced or delivered, from a given level of inputs, or alternatively, that for a given level of output minimizing the inputs used. It is measured by the ratio of actual input to actual output, or the rate at which actual inputs are converted into outputs." Effectiveness; "is concerned with achieving the top level goals of the organization... Effectiveness is concerned with outcomes or impacts, the results obtained or the effects of the services upon clients and is achieved when the impacts of a policy are meeting its policy aims." For Rouse (1997:85), economy is about inputs; efficiency about inputs and outputs; and effectiveness about outputs, outcomes and impacts; and the three concepts are interdependent and each one is little use of on its own.

Manifestation of market-based ethos can be observed in the desire to subject public services to competition, which is seen as the main driver to advance the role, status and power of citizens renamed as the customers. Another purpose of introducing competition is to change behavior of management and employees, which is thought to be an instrument of increasing efficiency and quality of public services. Performance management has also taken centre in the new ethos of public services. The performance has begun to be evaluated in terms of set objective targets and

indicators, defining clear responsibilities and outputs. In fact, as stated by Walsh (1995:21), there is no simple measure of performance in the public sector. Unlike private sector company, which has the ultimate measure of financial performance and profitability, public sector does not have an acceptable set of performance indicators.

The concept of quality of public services has become increasingly important as a result of new approach, notably the development of market-based ethos. Proponents of the change argue that introduction of market principles into the management of public services will improve quality of the services. In this regard, the issue of quality has become a justifying instrument of the market-driven changes. According to them, the user empowerment and increase of the level of choice both are the effective means of ensuring better services. The existence of clear standards about services and user involvement are thought to make users aware of the quality of services that they use. These mechanisms are considered to allow complain and redress if services were not performed properly. In this respect, via emphasizing quality of services, public services are aimed to make more responsive to the users and therefore make them more user-friendly. In this process, there is a strong tendency to focus on the quantitative elements of performance and quality rather than qualitative indicators with the impact of market-led changes that focuses on outputs rather than processes. A reflection of quality management in the public services is the increasing use of total quality management mechanism in the public sector. This mechanism has found wide application area in the public sector without respect to distinctive characteristics of public organizations. As a result of this, the distinction between public and private organizations and their employees, which brought about blurring the boundary between public and private.

Another argument for the introduction of market-based ethos is that it increases accountability by the means of user empowerment and increased level of choice. In addition, traditional approaches to accountability, based on accountability upwards, have been put into critical questioning. As a result of this, traditional accountability inspired from administrative and legal principles, has evolved to financial accountability, which emphasize outputs and results rather than inputs and process.

The aim of this change is to increase the degree of transparency in the public services. Financial accountability approach favors commercial and private sector practices vis-à-vis public sector values. However, commercial secrecy for the provision of information prevents proper functioning of accountability (Walsh, 1995:217). The problem of public accountability is also likely to emanate from the expansion of managerial freedom in the newly created autonomous public agencies. These businesslike autonomous agencies constitutes a challenge to the traditional mode of accountability based on public scrutiny through parliamentary debates, legislative committees, administrative tribunals and other democratic means (Haque,2001:71-72). Thus, it might be concluded that the new form of accountability has posed problems in terms of public accountability rather than improving its level.

In addition to the adoption of a market-based culture in the domain of public services, private sector language tends to dominate public sector thinking. This new language has underlined principles and assumptions of private sector such as profitability, efficiency, economy and effectiveness. With the impact of this new businesslike language, the terminology of the public sector has undergone a transformation in which previous terminology based on legal and administrative maxims has evolved into a commercial basis. The examples of this terminology, which employs concepts such as productivity, efficiency, profitability, can be observed clearly in the legal documents that represent official framework of the transformation. The Public Administration Law underlines necessity of themes such as efficiency, economy, productivity in much of its articles as compared to former legal documents about public administration. For instance, the article 1 and 5(b) and 6(c) of the Public Administration Law, concerning the basic aims, functions and principles of public administration, emphasizes the concepts such as participation, transparency, accountability quality, efficiency and productivity as the objectives of public service provision. In this process, some theoreticians and politicians have played crucial role in providing such kind of language in which transformation debate could take place as well as justification of change (Walsh, 1995:67).

The new commercial culture of public services inspired from private sector model have had fundamental impacts on the structure and actors of the domain of the

public services. The repercussions of the new ethos might be found in organizations, employees, methods of the public services. With the impact of market-based ethos the organizations of the public services have undergone a businesslike transformation. According to this, institutions have begun to be run like commercial business rather than public bodies. This decentralized, fragmented and often network type of organizations has pursued flexible policies rather than strict, formal, legal procedures. In these organizations, staffs are usually employed on a contractual basis, which does not provide permanent job security. In the employment process, human resource management mechanism is applied and employees are usually paid on performance-based wage. In addition, traditional methods of public service provision based on statist, paternalistic approach has been diversified to allow more participation of private sector. Thus, alternative public service delivery methods such as contracting-out, public/private partnerships have emerged to replace monopoly of government in the delivery of public services.

As a result of the redesign of the public services towards a more commercial orientation, traditional notions of the public service ethos has experienced a fundamental change. This change has implied a challenge to past administrative and legal assumptions that mould the concept of public service. After the spread of new commercial ethos, previous objectives and values of public services including equity, fairness, redistribution, protecting the vulnerable and disadvantaged, commitment to public interest and welfare of citizens have lost their central role in the current understanding of the public service which have distorting effects on publicness of the public services. For Haque(2001:61-74) some defining characteristics of the publicness of public services are as being; the extent of public-private distinction: Under this title, the principles of impartiality, openness, equality and representation are considered being distinctive public characteristics. The composition of service recipients: the broader the scope of beneficiaries of public services the higher degree of publicness. The intensity of its socioeconomic role: the wider social concern the greater the degree of publicness. In addition, the level of public accountability and public trust are thought to manifest the degree of publicness. As stated by Haque (2001:74, 1996:86), what he calls this process as “diminishing publicness of public

services”, the concept of public service has lost its legitimacy and confidence in the eyes of the public, which resulted in identity crises of the concept of public service.

To recapitulate; the concept of public service has undergone a transformation since the mid-1970s due to the changing role of state in economy and politics. The scope of the public services, which represent most concrete form of the role of state, had expanded in almost all societies throughout welfare state era. However, such an expansion and particularly direct government provision came under serious criticisms since they were perceived as the reasons of inefficiency, waste and unresponsiveness in the public sector. Various reform programs have been introduced into the domain of public services in order to overcome deficiencies of the public sector. These reform programs, subsumed under the title of new public management, have been consolidated by the ideas of new right political theory and neo-liberal policies. In this period, global institutions such as World Bank and International Monetary Fund have played crucial role in the spread of these programs in developing countries by the means of structural adjustment programs. Thus, the reform programs which brought about significant changes in the role of state and particularly pattern of public services has found worldwide application area.

The idea behind these changes is that public sector and government provision have become inefficient, wasteful and unresponsive. The shortcomings and deficiencies could be overcome by introduction of market mechanisms into the domain of public services. With the impact of these market-oriented changes, the concept of public service has experienced a transformation that has come into being as new trends in the domain of the public services. These new trends brought about radical changes in the scope, methods and ethos of the public services. As a result of these changes, the role of state, which mould the way in which public services operate, the classical patterns of public services has evolved a market-driven direction that resulted in shrinking and marketization of the public services.

In these changes, the principles and practices of private sector have been adopted as a model for the management of public services without regard to its distinctive values and dynamics. The use of market and private sector model of management has been seen as a general solution to the problems of the public sector.

However, the introduction of the private sector approaches itself caused new problems due to its inconvenient nature to the public service management (Deakin and Walsh, 1992: 500). As stated by Deakin and Walsh (1992:511), owing to distinctive tasks and conditions peculiar to public sector such as commitment to public interest, protecting disadvantaged, redistribution, justice and equity, private sector model is inadequate basis for the public services. Despite this inadequacy, the market and private sector model have become widespread in the domain of the public services. The use of this new approach, based on values, principles and practices of private sector and market model, have serious distorting impacts on the public character of the public services. After the adoption of these mechanisms, previous social concerns and altruism that dominated pattern of public services have begun to be replaced by profitability, efficiency motives of commercial culture, which destroyed the classical understanding of public services as a social right through the commodification of public services (Bağımsız Sosyal Bilimciler, 2005:39).

CHAPTER 5

SUMMARY AND CONCLUSION

Beginning from the 1980s, there has been a worldwide trend towards reducing the role of state in socio-economic activities, particularly under the influence of neo-liberal policies that represent a redefinition in the role and structure of state through deregulation, privatization and liberalization, which indicate a departure from the traditional role of state as a mechanism for public service provision. Parallel to this, traditional form of public administration based on rigid, centralized, bureaucratic structures has come under severe criticisms as they considered inefficient, unresponsive, wasteful and unproductive. Neo-liberal policies have stimulated the emergence of a new approach in the field of public administration, subsumed under the title of new public management, as an alternative to the traditional public administration. This new type of public administration has emphasized the introduction of market principles and the private sector techniques into the public services having transformative impacts on the concept of public service. Since the public services are the most concrete phenomenon of the role of state in socio-economic activities and the public administration constitutes the basis on which public services operate, the most significant consequence of this process is a serious rethinking on the basic assumptions and values of the concept of public service.

Throughout its history, the concept of public service has experienced a number of transformations called expansion and shrinking crises due to the different types of states namely night-watchman state, social welfare state, minimal state and regulatory state stemmed from the changes in the extent of government intervention and scope of the public sector. These transformations came into being as changing levels of the public services provided by the state. As argued in the present study, the content of the public service is contingent upon the ideological preference of state about economic management and social provision. In other words, the scope and depth of the public services are determined by the deliberative choices of the states about allocating resources, values and strategies of the involvement into the socio-

economic activities. Although capitalist social order was not challenged totally, the scope and depth of the public services have undergone changes with respect to ideological disposition of states, which embody as different types of states. During the period of laissez-faire capitalism, the public services were consisted of only maintenance of law and order by the state and some of the functions, which might be regarded as the early forms of the public services, were undertaken by charitable and religious organizations. Following World War II, the role of state in socio-economic activities and the scope of public sector expanded in both advanced industrialized societies and developing countries within the framework of either welfare state or developmental state, which implied new and diverse responsibilities for the states in the form of public service. In this process, number of services such as education, health, social security, housing, generating employment and eliminating poverty in many countries were considered as the functions of states and these activities were publicly provided for redistributive purposes. Within the context of social welfare state, public services were arranged as a social right of being citizen and they were financed through taxation rather than direct charging of the beneficiaries.

However, beginning from the late 1970s, such an expansion of state involvement and scope of the public sector came under serious attacks on several grounds asserting that states were too big, consuming scarce resources and using inefficient methods and public services were viewed as a burden on the state budget. Furthermore, state intervention was considered as creating monopolies, limiting enterprise and individual freedom of choice. Therefore, a minimal role, which meant withdrawal of state from the provision of the public services, was assigned to the states in the beginning of the 1980s. In the light of evolution of neo-liberalism, which might be observed throughout 1990s and 2000s, there have been some modifications and re-definitions of the very important liberal concepts and the principles, as is the case from anti-state orientation and interpretation to the acceptance of the state as an actor on the disguise of governance. Similarly, it is yet early to contemplate if the public service definition will remain the same in near future under pressing social circumstances.

Since the 1980s, parallel to the changing role of state, the necessity of the change has been emphasized in the public sectors of both developed and developing countries. Under the influence of neo-liberal policies, states have tried to overcome the shortcomings and problems of traditional model by introducing reforms in the public sector. While these reforms were first introduced in industrialized countries, in particular conservative governments of the United Kingdom and The United States inspired from the new right political theory, they have increasingly been adopted by left wing governments as in the case of Austria and New Zealand and developing countries. Although these reforms have been initiated by deliberative preferences of states, more specifically, reforms are often followed indigenous decisions taken by government in the form of legislative arrangements or different regulative strategies, in some cases, the external forces have been influential in the spread of these reforms. Particularly, international agencies such as International Monetary Fund and World Bank have imposed these policies to the developing countries under the title of structural adjustment as a precondition of loans needed by these countries.

The recent transformation of the concept of public service, emanating from the shift in the role of state within the framework of neo-liberal policies and the new public management approach, has been reflected in the form of new trends in the domain of public services. Within the context of new public management approach, the scope of the public sector, which can be illustrated by the level of public expenditures and state ownership of assets and the number of public employees, and state involvement have been narrowed as a result of implementation of these market-based policies. The public sector has not only adopted the practices of the market but also its values such as 3Es principles of efficiency, effectiveness, economy and productivity, value-for-money, cost-benefit analysis since the market has been considered as the instruments of improving freedom of choice, efficiency and individual enterprises by the means of competition and price mechanisms. The central instruments of new public management are privatization, contracting-out, public-private partnerships, decentralization and flexibility, which serve to provide a reduced role for the state in the provision of public services in favor of private and voluntary organizations. The role assigned to the state within the new public

management context is a regulator and enabling role for the well functioning of the market system rather than direct provision of the public services.

In this process, characterized by the new trends in the domain of the public services, on the pretext of efficiency, effectiveness, productivity, transparency, accountability and improving quality, market mechanisms, private sector practices and commercial ethos have been gradually injected into the domain of public services intending to change the existing patterns of the public services. According to these trends, some of the functions of the state, which used to be performed as public service, have been devolved to the private sector. By the means of privatization, which brought the sale of state-owned enterprises to the private initiatives, and cut down of the number of the public employees, retrenchment of resources allocated to the fulfillment of the public services, the scope of the public services has narrowed. In addition, the provision methods of the public services have been diversified in order to allow participation of the private sector and voluntary organization. Decentralization has been emphasized so as to make service delivery closer to the point of delivery, which was thought to provide democratic environment and feedback from the user. Flexibility has also underlined as an instrument to explore alternative methods to the government provision. All these development has resulted in the fragmentation of the domain of public services, which caused the complexity and confusion in the delivery procedures of the public services.

The most popular element of this process has been employment of market mechanisms such as contracting-out, user charges, performance evaluation, explicit quality standards and greater focus on in terms of efficiency, effectiveness and economy, which might be called marketization, in the provision of public services. Thus, result has been the commodification of the public services as a result of which public services have become purchasable good. This process has brought significant impacts on the perception of citizenship. Through the new trends in the domain of public services, the beneficiaries of the services have begun to be considered as the customers of the services, who have to pay for the service as a using premise, rather than citizens, who already pay their taxes. Such a system has particular negative consequences for the underprivileged and poor segment of society. Public services

used to be accessible to all citizens without regard to their ability to pay. As a result of new trends, which aimed at commercialization of public services, the basic services for the poor, who do not have ability to pay, have begun to be arranged as favor rather than basic human right. In this regard, the users of public services has been perceived as the indigents who take alms from the charity rather than citizens who have social right to full access to the public services.

Considering all these facts, it might be concluded that the concept of public service has undergone a market-led transformation in terms of its content, methods and ethos, which might be summarized under the titles of shrinking and marketization. To me, the most dramatic change in the definition and the re-conceptualization of the concept of public service has been on the “public” characteristics of it. With the impact of business-like transformation of the concept of public service, the traditional understanding of the concept of public service as a social right evolved into a commercial basis constituting obstacles for the full access of citizens to the public services. Since the market-led changes have implied exclusion of some of the citizens from the state provision of the public services and profit maximization has become dominating figure in the public services, the public characteristics of the public services has eroded. This has distorting impacts on the basic principles and features that distinguish the public services from the private sector activities by the supplant of business norms and commercial ethos destroying the public dimension of the public service, which constitutes one of the ontological premises of the concept of public service. In this regard, as argued by Haque (2001:74), the transformation has led the concept of public service to an “identity crisis as a public domain”, which in turn worsened the existing definitional problem of the concept rather than proposing a solution.

Another shortcoming of this process is related to the emulation of the private sector and market model in the domain of the public services. The private sector and market have considered as a perfect model to be adopted. However, there is no fundamental truth demonstrating the private sector and market are always better than the public sector in terms of efficiency, effectiveness and economy. Furthermore, the public sector and the private sector are not comparable due to the distinctive

purposes they pursue. Since the public sector aims to provide public interest and broader social objectives with respect to redistributive role of state, it is not true to evaluate public services in monetary terms. In addition, all of the public services are not amenable to the market mechanisms. Exposure of core functions of states to the market forces, which pursue their self-interests at the expense of basic values of the public services such as equality, continuity and the public interest, could create difficulties.

This also has additional negative implications in the long run such as the rise of unemployment and poverty. The distorting consequences of this process are likely to be more dramatic in less developed countries like Turkey, which experience big income disparities and increased level of poverty as compared to developed countries that have strong welfare state institutions. Therefore, in less developed countries, where states have critical functions in eliminating income inequalities and protecting underprivileged groups in the society, the reform of the public services should be distinct from the market-based principles of the neo-liberal policies.

In conclusion, despite the fact that the public services have some problems and shortcomings and therefore, require to be reformed, the recent transformation of the concept of public service cannot be regarded as a “reform” in the domain of the public services. Although there may be advantages in adapting practices of the private sector and market, the disadvantages are more important than the advantages because of the one-dimensional, market-oriented focus of the transformation, which neglects social concerns and societal demands. Therefore, it is not possible to say that this process has provided improvement and reform in the public services. However, to say the market-oriented transformation of the concept of public service is “liquidation” is exaggeration. Since within the context of new trends in the domain of public service, the role of state has not totally vanished, and the all of the public services have not become the private sector activities, this process has not meant liquidation of the state and the public services. Thus, the transformation of the concept of public service represents a change rather than being a reform or a liquidation process.

In my opinion, in spite of all these efforts to narrowing down the scope of the public services and to expose them to the market forces, the concept of public service and the role of state and the public sector in the provision of the public services will remain crucial in the future. Since the core functions of the states such as maintenance of law and order, external and internal defense, some of the critical services such as education and health cannot be provided by the private sector on an egalitarian basis, the public sector and state provision will play considerable role in the domain of the public services. Furthermore, some of the critical activities, which are non-profit and have great externalities but socially important, such as protective health care, preventing environmental pollution will not be appealing for the private sector. Moreover, as has happened in the past, capitalist system may require more state intervention and more social services to deal with probable crises that may emerge in the future. Therefore, the concept of public service will not be abandoned and it will be important in the future as well.

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