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Historical development of legal deposit system in Turkey

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Abstract

Legal deposit is essential for the accumulation of a national collection of published works such as scientific research, literature, etc., and its transfer to future generations. It is also a vital tool for maintaining bibliographic control at both the national and the international level. Hence, there is an international convention to establish a legal deposit system that works under legislative arrangements. However, a legal deposit law does not always guarantee a full implementation. The fact is, unless coordination and cooperation are provided between stakeholders, implementation of legal deposit cannot be effective. This paper, taking Turkey as an example, attempts to examine the problems concerning implementation of legal deposit and proposes solutions in this context.

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1. Introduction

The practice of legal deposit has a significant cultural function in establishing the "production-use" cycle of knowledge and ensuring its continuity. By taking under control social knowledge (that is, knowledge available to the society) and making it accessible at national and international level, legal deposit contributes to the promotion and the recognition of national culture and its distinct features while, at the same time, also contributing to the universal conservation of the cultural richness and diversity of mankind. Legal deposit provides basis for national bibliography. Since national bibliographies are vehicles for

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exchanging bibliographic information, a nation can make its cultural and intellectual works available, not only to its people, but also to other nations. In this way, a multi-directional progress in cultural interaction and information flow can be possible. It is therefore necessary for countries to feel obliged to realize and promote legal deposit, both for their future and for that of humanity as a whole.

National libraries typically carry out legal deposit under a specific legislation, and there is generally a worldwide consensus about what common characteristics these legislative arrangements should have. Nevertheless, there are still some differences in legislative arrangements regarding various details including types of materials to be deposited, number of copies, deposit institutions, as well as definitions relating to each of these details. This divergence derives mostly from the overall approach taken by individual countries, their administrative structures and culture, and science and education policies adopted. In short, although observing some universal principles, countries approach legal deposit in the light of their specific circumstances and backgrounds.

In Turkey, legal deposit first became a subject of legislation in 1934. The law of Legal Deposit of Printed Materials and Pictures was based on French legislation enacted in 1925. Since then, publications in various new formats appeared, and the law of legal deposit became insufficient to meet the changing circumstances. There have been various drafts to update the old legislation, and some of the obstacles to implementation have been eliminated. Yet in spite of these efforts, desired improvements in legal depositing (which is a significant means in consolidating cultural accumulation, its transfer to future generations, and in ensuring bibliographical control) could not be achieved, as it was not recognized as a prior asset on the part of the government.

The objective of this paper is to expose the problems of and obstacles to effective legal depositing in Turkey. In this context, the paper focuses on the features of the existing legal deposit legislation within the framework of drafts proposing solutions.

This paper at the same time proposes that the existence of a legal deposit law does not usually ensure the accumulation of published cultural heritage or visa versa and claims that implementation also has a vital importance in establishing a complete national collection for the benefit of future generations. At this point, an emphasis is placed on the crucial role of coordination and cooperative efforts based on common understanding.

2. The legal deposit law of Turkey: structure and implementation

Considering that legal deposit is still governed by the legislation passed in 1934, it may be worthwhile to touch upon the nature and the implementation of this legislation. The 1923 education reforms (launched in the early years of the Republic) were intended to modernize

¹ While the issue is addressed under the copyright arrangements in the United States, United Kingdom, and Australia and under the National Library Legislation in Canada, other countries including Turkey cover in through legal deposit legislation. PADI. (n.d.). *Legal deposit*. Retrieved January 28, 2005, from http://www.nla.gov.au/padi/topics/67html>.

and to unify the educational programs and the methods and approached the issue of improving libraries. But it was necessary to send students abroad since there were no trained staff or academics in this field. Fehmi Ethem Karatay was the first of these students, and he is one of the architects of the legal deposit law that is still in effect today. In 1926, he launched the first initiative in Turkey in giving a legal status to the practice of legal deposit by translating the French legislation on legal deposit. Among other students sent abroad, we see Adnan Ötüken, founder of both the National Library (1946) and the Turkish Library Association (1949) and who started education for librarianship in Turkey with his courses (1944) and contributed to the establishment of this profession as an academic discipline (1954).² The aforementioned made significant contributions to cultural life in Turkey besides their work in relation to libraries.

The Draft Law on the Legal Deposit of Printed Materials (LDLoPMP), which was translated from French as mentioned above, was adopted by the Ministry of Education (MoE) and the draft even reached the commissions of the Turkish Grand National Assembly (TGNA). It was, however, criticized by the budget commission as a "new tax" and later withdrawn (Acaroğlu, 1997). The 1934 draft found its way to the agenda again in line with the directives of Mustafa Kemal Atatürk, the founder of the Republic (Gökman, 1952). The law took effect upon its publication in the Official Gazette No. 2741, dated February 7, 1934. (Basma Yazı ve Resimleri Derleme Kanunu, 1934). The LDLoPMP consists of sixteen articles. The first states that "all printers in Turkey engaged in printing texts and pictures specified in Article 2 below are obliged to deliver 5 copies of each material they printed to the Ministry of Education."

The law includes provisions on "materials to be deposited," "libraries entitled as legal deposit institutions," "those obliged to deliver legal deposit copies," and "authorities in charge of implementation;" and Articles 2, 4, 6, 7, 9, 11, and 12 are related to materials to be deposited.

2.1. Materials to be deposited

According to Article 2 of the law, materials to be covered include "newspapers, agency circulars, magazines, books, pamphlets, academic theses, maps, atlases, gravures, all kinds of painted pictures, posters of artistic quality, guides, plans, designs, song books, musical notes, dance notes, stage plays, reports issued by associations and companies, catalogues, calendars, almanacs, and agendas." The article was given some flexibility of application with the provision stating that, "Those materials whose relevance to the cultural life of the country is considered and announced by the Ministry of Education may be held subject to the same obligation."

The law further covers materials issued by official printers or government organizations with the exception of confidential work as well as canceled bonds, stamps, checks, and

² Education for librarianship has been started as a certificate program by Adnan Ötüken in 1944 and continued for 10 years. The students attended to those courses had various educational backgrounds. In 1954, Department of Librarianship was formally established at Ankara University and students attended to this department took a diploma of this field after a 4-year higher education.

notes (Article 4); reprints and new editions (Article 6); materials printed in other countries and imported to the country for dissemination by people residing in Turkey (Article 7); each installment or volume of materials printed in installments or volumes (Article 9), excavators of archaeological sites (Article 11), and materials officially banned by the government (Article 12).

2.2. Legal deposit libraries

Under Article 8 of the law, the following legal deposit libraries were designated to receive one copy of each designated item: The National Library (the unit authorized by the MoE will receive this copy until the establishment of National Library); the General Library of Ankara; the General Library of Istanbul; the Library of Istanbul University; and the General Library of Izmir. In January of 1976, the TGNA Library was also included among legal deposit libraries under Article 8, thus becoming Turkey's sixth legal deposit site. (TBMM Kitapligi Kurulus Kanunu, 1976).

Article 11 specified that two copies would be deposited to the National Library (the unit authorized by the MoE will receive these copies until the establishment of National Library); and one copy each would be placed with the General Library of Ankara; the Library of the Museums Department of the MoE; the Library of Antique Museum of Istanbul; and the Library of the Turkish Historical Studies Institution.

2.3. Delivery of legal deposit copies

According to Article 1, the parties obliged to deliver legal deposit include "printers engaged in printing materials mentioned in Article 2." Article 7 specifies deposit by "publishers in Turkey in regard to imported materials." Article 11 requires compliance by "scientists or experts engaged in excavations in Turkey."

2.4. Organizational structure and implementation

Article 13 of the law states that the MoE shall be provided with a sufficient number of personnel to carry out the duties specified as to receive legal deposit copies, keep relevant records, and prepare and issue all kinds of bibliographic works. Accordingly, a Legal Deposit Directorate was instituted within the Ministry³ Immediately after the law took effect, the Ministry dispatched directives to provincial governorates (Basma Yazı, 1935a; 2660/54 no'lu, 1935; Derleme İşleri, 1935) underlying the need to implement the provisions of the LDLoPMP and explaining how records were to be kept in taking legal deposit. The Ministry also issued a regulation (Basma Yazı, 1935b) specifying principles relating to organization and implementation. According to this regulation, the Directorate of Legal Deposit is a unit

³ Under the amendment made to the "Law on the Central Organization and Duties of the Ministry of Education" no. 2287, dated 10 June 1933, the Directorate of Legal Deposit was instituted as a unit attached to the Education and Training Department of the Ministry.

attached to the MoE. It is located in Istanbul and carries out legal deposit operations in this province while, at the same time, collecting legal deposit copies coming from other provinces, keeping their records, and dispatching them to relevant libraries. The unit also issues the bibliography of deposited materials every 6 months, prepares bibliographies in various subjects and languages, and keeps in touch with correspondent institutions and units abroad.

Besides the facilities in Istanbul, legal deposit is carried out by a staff appointed in the Ministry in Ankara, public servants appointed by Directors of Education in other provincial centers, and by ministry personnel in district centers.

2.5. Amendments and problems in implementation

Although the content of the legislation was in compliance with circumstances existing at that time, it could never be implemented effectively. Efforts were made to take various measures especially to prevent legal deposit evasions, to ensure timely deposit, and to help the directorate to work effectively.

For example, preparations to establish a national library had started in 1946. These efforts gained official status upon the enactment of a new law (Milli Kütüphane, 1950). The National Library undertook the task of conducting legal deposit in Ankara beginning in 1952, and the Bibliography Institute established within the library later undertook (upon passage of a supplementary law) the task of preparing and publishing bibliographies from the Legal Deposit Directorate (Milli Kütüphane Kuruluşu, 1955). This represented a significant step forward for the cultural life of the country.

By referring the task of preparing and publishing the Bibliography, which is the most important tool of bibliographical control, to the National Library, the directorate virtually lost its cultural function and turned into an administrative unit which merely collects and distributes legal deposit copies.

Meanwhile, the Directorate of Legal Deposit was, in 1978, transferred to the Directorate General of Libraries (DGL) upon a protocol signed between the MoE and the Ministry of Culture (Kütüphaneler Genel Müdürlüğü'nün, 1980). Accordingly, the task of collecting legal deposit copies in provinces other than Istanbul was transferred from the MoE staff to personnel in provincial and district public libraries and to district governorates in districts where no public library exists. This step placed legal deposit under the supervision of libraries.

Then a decision was made to have the Public Library of Ankara conduct legal deposit in Ankara province instead of the National Library. According to this decision, materials collected by Provincial Public Libraries had to be sent to the Directorate of Legal Deposit within 15 days (Ankara Derleme, 1981). However, this practice was quickly found to be costly and districts were asked to send their collected materials directly to the directorate again (Ankara Derleme, 1981; TC Kültür ve Turizm Bakanligi, 1983).

In another regulation concerning legal deposit issued on August 21, 1981 (Basma Yazı, 1981), there is mention of "establishing legal deposit offices in provinces selected by the Ministry and legal deposit services supervised by provincial libraries in other provinces apart

from the Directorate of Legal Deposit situated in Istanbul and having units appointed by district governorates to collect deposit in districts where there are no libraries." This regulation envisages an organized system for legal deposit collection in places other than Istanbul.

Since 1949, amendments were made in various articles of the Penal Code to increase fines applicable in breaches. Accordingly, fines stipulated in the legal deposit law were also increased to consolidate the sanctions of the law (10 Haziran, 1949 tarih ve, 1983; Polat, 1998).

In spite of measures adopted to give effectiveness to implementation, no radical change could be achieved and problems continued up to the present day with even greater complexity. Problems can be summarized as follows:

- 1. The law does not allow for the deposit of new forms of publication which have emerged parallel to technological advances. In other words, audio-visual materials and ePublications, for example, cannot be deposited under this law. Yet, it could have been possible to widen the scope of materials to be collected by referring to the last part of Article 2 which reads "Materials whose relevance to the cultural life of the country is identified and declared by the Ministry of Education may also be covered by the present law."
- 2. Since printers were the principal actors in publication activities when the law took effect, the term "publisher" was almost tantamount to "printer." Further, authors and editors were not imposed to submit legal deposit. This situation both leads to deposit evasions and makes bibliographic control more difficult.
- 3. Today, libraries receiving legal deposit copies are in three metropolises: Ankara, Istanbul, and Izmir Considering the number, the distribution, and the qualification of libraries in the country at the time the legislation was enacted, this may be appropriate. However, taking into account the country-wide existence of universities and their libraries, it is clear that the present limitation creates problems for researchers.
- 4. Other than legal deposit law, printers in Turkey are obliged to submit two copies of their printed material to each of the three institutions: to the highest government authority and to public magistrates in their locality, and to the Directorate of Press and Information. These bodies consider incoming materials as burden and try to get rid of them as soon as possible including their transfer to paper mills (Sefercioğlu, 1998). So far there has been no effort to gain these materials for the cultural life of the country.
- 5. The Directorate of Legal Deposit (in charge of collecting legal deposits) and the National Library (in charge of developing a national bibliography) have not been allocated sufficient resources in terms of staff, equipment, and funds.
- 6. There is no sufficient cooperation and coordination among the Directorate of Legal Deposit, ISBN⁴ and ISSN⁵ centers, the Directorate General of Libraries, the National

⁴ The ISBN Agency Turkey is active under the GDL since 1987.

⁵ The ISSN Centre in Turkey is active under the GDL since 1992.

Library, units attached to the same ministry, as well as printers, publishers, and the mentioned units.

- 7. Messages about the importance of legal deposit could not be carried to printers, publishers, and public libraries as important stakeholders in implementation.
- 8. Frequent changes in the organization of the Ministry of Culture⁶ affect all units attached to the ministry, thus negatively affecting the functioning and continuity of the system. This problem is further compounded by political-bureaucratic rearrangements and restaffing which run parallel to changes in political parties in power. The ministry therefore cannot develop and maintain a consistent culture policy.
- 9. The National Library is presently publishing two important bibliographical sources: the National Bibliography and the Bibliography of Articles. However, due to delays in collection and submission to the National Library, these sources cannot be made available to researchers in a timely manner. As a remedy, the library purchases legal deposits that have not been submitted in time. Since they are not covered by the legislation in effect, audio-visual materials are also purchased or obtained through donations. This is a considerable financial burden for the National Library, which is striving for a full system of deposit.
- 10. In 1971, a "Government Publications Documentation Centre" was established within the National Library. This center aimed to collect, analyze, and provide computer access to materials and documents produced by ways other than printing. The center produced a Bibliography of Government Publications for a while. But the activities of the center did not survive (Milli Kütüphane, 1976). Today, although there is no mechanism ensuring systematic access to these publications, progress in "e-Government" is gradually making such access possible. Information technologies are being used in the internal communication and procedures of government institutions. This transformation is based upon various earlier steps including the "Kamunet project" (launched in 1998) and "e-Turkey" work launched as an extension of "e-Europe+". These two projects were later combined in "e-Transformation Turkey" (2003) project. The Internet is also available for services delivered to citizens. Parallel to e-content work conducted by these institutions, online access to relevant documents is rapidly increasing. (Devlet Planlama Teskilati, 2006; Akgül, 2006).

All these problems have long been expressed and discussed in intellectual circles within the profession. Professionals in the field agree that existing legislation is the root cause of all these

⁶ The Culture Division established in 1920 as a unit attached to the Ministry of Education was abolished in 1926 and was transformed into Directorates of Libraries, Museums and Fine Arts. The Directorate of Libraries became Directorate General under the MoE in 1960 and then transferred to the newly established Ministry of Culture in 1971. In 1982, it underwent another change and made the "Directorate General of Libraries and Publications." The Ministry of Culture was first merged with the Ministry of Tourism in 1983, separated in 1989 and remerged in 2003. Kütüphaneler ve Yayımlar Genel Müdürlüğü (2006). *Kuruluş, Amaç ve Görevleri*. Retrieved January 21, 2006, from http://www.kygm.kulturturizm.gov.tr/Yonlendir.aspx/.

problems. Thus, efforts for solution focus on the amendment of this legislation, giving rise to various drafts⁷ (see Table 1).

3. Initiatives for legislative arrangement

All legislative work presented in Table 1 above tried to include provisions to deliver effective legal deposit depending upon the conditions at the time. These resolutions gave priority to encompassing the wide range of publications. There were also efforts to expand the scope of legislation to cover new techniques of printing and publishing. The drafts had different approaches including, for example, considering the nature of the material concerned while determining the number of copies to be deposited; having legal deposit libraries presently existing in three major cities (Istanbul, Ankara, and Izmir) increased to be accessible in all seven geographical regions of the country; expanding the coverage of legal deposit obligation to include publishers and producers; and increasing the number of National Library deposits to two. The latest draft law (Derleme Sorunlari, 1998) designates the legal deposit libraries and number of copies they are going to have as follows: The National Library (two copies); TGNA Library (one copy); Beyazit Library in Istanbul (one copy); and public libraries in other provinces (one copy for each). Apart from these, the draft law also states that the Higher Education Board Documentation Centre keeps copies of academic theses produced by Turkish citizens (both at home and abroad) whereas the Patent Institute keeps patents. This system is presently in effect in Turkey.

Under the latest draft, the Directorate of Legal Deposit is placed under the National Library in a department status and the department is charged to assign ISBN and ISSN before the printing of books and periodicals. This will enhance the effectiveness and authority of the unit. Furthermore, Article 13 in the draft removes postal charges and Article 15 introduces measures to prevent legal deposit "leakages," including obliging printing facilities already operating (or to be established) under the Press Law No. 5680 and Printing Law No. 5681 to submit a copy of their legal permit issued by relevant government authority to legal deposit libraries as well.

In summary, both the early legislative drafts and the most recent one intend to bring about a more effective legal deposit system as an essential prerequisite of a national published archive and effective supervision of recorded knowledge.

Meanwhile, the Ministry of Culture, considering the urgency of the situation, addressed the issue of legal deposit in amendments introduced to the Law No. 5846 on Intellectual and

⁷ For information about drafts, see Acaroğlu, Türker (1967). Derleme Kanunun Degistirilmesi Çabalari. *Türk Kütüphaneciler Derneği Bülteni*, 16(1), 36–44; Fikir ve Sanat Eserlerini Derleme Kanun Tasarisi (1961). In *Kütüphaneler Komitesi Raporu* (pp. 62–72). Ankara: Milli Eğitim Bakanlığı; Acaroğlu, Türker (1987). Fikir ve Sanat Eserlerini Derleme Kanunu Tasarisinin Gerekçeleri Nedir? İn İkinci Türk Yayın Kongresi 24–27 Ocak 1975. Bildiriler 1 (pp. 272–274). Ankara: Kültür ve Turizm Bakanlığı; Derleme Kanunu(taslak). (1977). İn *Unesco Türkiye Milli Komisyonu Yönetim Kurulu Raporu* (pp. 117–121). İstanbul: Unesco Türkiye Milli Komisyonu; Düşün ve Sanat Eserlerini Derleme Yasası(tasarı) (1980). *YeniYayinlar, 29* (3–4), 28–29; Devlet Planlama Teşkilati (1982). *TC. Başbakanlık, Devlet Planlama Teşkilatı Dördüncü Beş Yıllık Kalkınma Planı 1982 Yılı Programı*. Ankara: Devlet Planlama Teşkilatı.

Table 1 Attempts to update the law on legal deposit

Year	Legislative drafts or arrangements	Drafted by	Process of enactment
1955	Draft Law on the Legal Deposit of Intellectual and Artistic Products	Türker Acaroğlu (Director of Legal Deposit at the time)	The draft was presented to the MoE Publications Directorate in 1956. In spite of insistent communication and request of information, no result could be achieved.
1961	Basing on the draft law in 1955	Committee for Libraries (within the framework of transition to planned period)	Approved at the 7th National Education Council. It was examined by the Education Commission of the Parliament. It even reached the General Assembly but could not be enacted there.
1975	Ways of making the law more effective were discussed and proposals were developed at the 2nd Publication Congress	Work of the 9th Commission at the Congress.	Suggestions are inapplicable in practice.
1978		UNESCO National Commission for Turkey	Passed to the board and remained there
1979	Draft law on the collection of Intellectual and Artistic Products.	Ministry of Culture	Opinions were solicited, examination was made by the Directorate General, presented to the Ministry via the Higher Board for Council, but no further progress took place.
1980	The executive plan for 1981 states that a new law is pending and in 1982 it is stated that the final shape was given to the draft	Joint work by the NL and the DGL.	No enactment took place.
1989	The draft law on the legal deposit of printed and reproduced materials	Joint work by DGL, University and Research Librarians Association (URLA), TLA, universities, and research institutes	Approvals of ministries were obtained but no result could be achieved.
1995	Updating	DGL	No outcome
1998	Draft law on the legal deposit of reproduced intellectual and artistic products	DGL, NL, TLA, URLA, universities, and research institutes	No outcome

Artistic Products (5846 sayılı Fikir ve Sanat, 2005). In the sixth part of the law, Article 5 (which supplemented Article 88), it is stated that "intellectual and artistic works protected by the law for the preservation and continuity of cultural heritage are collected by the Ministry of Culture" and introduces the obligation that "real or legal persons as owners or publishers of intellectual and artistic works shall deliver at least five copies of each work as legal deposit within at most one month following their production or reproduction." It is also stated that such

details as materials to be deposited, publishers in charge of delivering deposit copies, units in charge of collecting legal deposit, number of copies to be deposited, bodies entitled to receive legal deposit, and norms and procedures relating to these details are to be addressed in a regulation to be issued by the Ministry of Culture. However, there are still some defects. First, the article mentioned did not annul the law No. 2527; and second, the regulation requiring authorities to conduct legal deposit work, as envisaged by the same article, has not yet been issued (Kayaoğlu, 2004). Meanwhile, a statement made by the Deputy President of National Library (March, 28, 2006) suggests that the library has submitted a new draft law on legal deposit to the Prime Ministry (Tok, 2006).

All this shows that there is a rather long history of efforts in enacting legislation to radically solve the problem of legal deposit. As can be seen from Table 1, there have been many drafts towards this end. In the legislative process, however, these drafts have either been neglected by ministry authorities who were to offer opinions, or the authorities could not find a place for them in the agenda after they reached the assembly.

These bottlenecks in the process derive from the following:

- 1. Bureaucratic structures and red tape.
- 2. Stance of bureaucrats vis-à-vis issues relating to knowledge and culture.
- 3. Lack of support from and cooperation with printers and publishers.

In addition to these above instances, the methods used to draft the bills are also worth mentioning. While drafting bills, it is important to discuss the issue at hand within all relevant theoretical and practical dimensions. Such a discussion requires the involvement and the participation of all concerned parties. In our specific case, these parties include the associations of printers, publishers and authors, the Directorate of Legal Deposit, the National Library, associations of librarians, relevant departments of universities, the Directorate General of Libraries, and provincial public libraries. No such meeting has taken place in the legislative process. Participation and involvement of parties through discussions, however, are essential for reaching common grounds an ensuring commitment to implementation.

4. Conclusion

Since the legal deposit law in Turkey is out-of-date, many publications and materials today remain out of its scope. At present, the law cannot ensure even the full collection of materials it actually covers. Efforts have been made to update the legislation, but the main problem originates from implementation. Some practical solutions may be developed to give effect to implementation. For example, information-building meetings, seminars, etc., can be organized with the participation of information and records management departments of universities and the Directorate General of Libraries in order to sensitize relevant parties about the importance of legal deposit and to create a sense of responsibility in this regard. Informative and user-friendly documents (brochures, CDs, etc.) can be developed. The Directorate General of Libraries, the Directorate of Legal Deposit, and the National Library should establish a joint

commission to establish cooperation with professional organizations in printing and publishing and to develop joint projects (especially with publishers). Also, efforts should be made to widen the coverage of legal deposit by enacting mutual agreements with publishers.

Today the Directorate General of Libraries, the Directorate of Legal Deposit, and the National Library carry out their work on the basis of automation. Further, publishers are required to have certificates for their publishing activities. Hence, follow-up publications and supervision of publishers will be facilitated if ISBN/ISSN is made compulsory through the Internet. This will also help prevent deposit evasions.

At present, the process of alignment with the EU legislation is in progress and this provides an environment conducive to the review of the existing legal deposit legislation. Nevertheless, practical solutions relating to implementation should be introduced before any comprehensive legislation is enacted, and work must be started urgently to identify problems that may emerge, especially in relation to the depositing of ePublications.

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