

AN APPRAISAL OF LEGAL DEPOSIT LAWS IN TANZANIA

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Abstract

This paper addresses issues concerning legal deposit laws of Tanzania. Currently under the existing legislation two libraries have been accorded a status of legal deposit of the country's national heritage. However, one wonders whether it is reasonable to place all national heritages in two places only. The paper argues further that, a vast country like Tanzania needs to have national heritage in various geographical locations to enable the majority of its people to have access to such information. This paper highlights and makes an appraisal of the current position of legal deposit in the country. It draws experiences from other countries with reference to legislation on such deposits and concludes with recommendations on how to improve their scope of operation.

Introduction

Legal deposit is a statutory obligation which enforces organizations, commercial or public, individuals producing any type of publication in multiple copies to deposit one or more copies with specified institutions.

According to Jasion* (1991:7) legal deposit is broadly defined as "government provision which compels producers of all types of publications to deposit a certain number of copies of each publication in designated libraries or similar institutions." The primary purpose of legal depository is to collect, preserve and to make it possible for all citizens to have access to all published materials.

However, in a broader perspective legal deposit enables a country to accomplish two important obligations to the international community by recording everything the country has produced in accordance with the United Nations Educational Scientific and Cultural Organisation (UNESCO), and International Federation of Library Association (IFLA) programmes. On the other hand, it forms the basis for the recipient library to compile and produce the national bibliographies of the country and other databases that alert the users world wide of the existence of books and documents for the purpose of promoting their distribution and sale. It is through legal deposit that scholars can be able to consult the original documents after their disappearance in the market channels. Apparently, without legal deposit there would be no record of the past as part of continuing cycle of experimentation and advancement of knowledge.

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The purpose of modern legal deposit as summarized by Rugaas (1994: 42) is to “collect, store and make available for the present and the future the sum total of the intellectual and cultural heritage of a country.”

It is a valuable way of ensuring that a country’s literary heritage, in whatever medium is preserved for the nation. This heritage contains important information for the development of the country.

This paper examines legal deposit laws which are in force in Tanzania. The conclusion is a plea for librarians and policy makers to work together in revising the existing laws in line with the prevailing educational development and to come out with a clear concept of a “book” in the digital environment era.

Types of Publications Subject to Legal Deposit in Tanzania

Traditionally, the concept of legal deposit developed when printed materials were a dominant carrier and storage of information. Under section 2 of the Libraries (Deposit of Books) Act, Act No. 74 of 1962 publications subject to legal deposit includes a book. The term “book” in the context of the Act is defined as:

- (a) Every part or division of a book, pamphlet, newspaper, periodical, magazine, review, gazette, sheet of music, map, plan, chart of table separately printed;
- (b) Does not include any second or subsequent edition of a book, unless such edition contains additions or alterations either in the letterpress or in the maps, prints or other illustrative materials belonging thereto, or any book which will not be made available to the public at large.

Another piece of legislation defining the term “book” is the Tanzanian Library Services Board Act, No. 6 of 1975. Under section 2, the Act defines the “book” to include:

- a) Any book, document, periodical, magazine, newspaper, pamphlet;
- b) Music-score, gramophone record, picture;
- c) Print, engraving, etching, deed, photograph, map, chart plan, film, filmstrip, microfilm, slide or manuscript, and any other article or thing of a like nature, provided for use in any library.

Looking at the provisions of the above referred Acts, it appears that the latter Act, that is the Tanzania Library Services Board Act, No. 6 of 1976, gives a somewhat comprehensive definition of a “book” compared to that offered by the Libraries (Deposit of Books) Act, 1962. However, its scope is not

comprehensive enough to accommodate the new emerging technologies of recording and storage of knowledge. However, this will be discussed in detail in section which deals with Legal Deposit Laws of other countries. Therefore in the light of the current situation, it is sufficient to suggest that there is a need for a modern legal deposit legislation in the country.

Legal Deposit Laws of Tanzania

Having discussed types of publications which are subject to legal deposit in Tanzania, let us now examine, albeit briefly, the legal deposit laws in the country.

The history of legal deposit in the country can be traced as far back as 1962 when the Libraries (Deposit of Books) Act, 1962 was enacted with a view of making provision for the deposit and preservation of copies of books printed in Tanganyika. Section 3 (1) of the Act makes provisions for the deposit of books. As a matter of clarity the section is hereby reproduced as follows:

“The printer of every book printed in Tanganyika shall, within one month after the day on which any such book is first delivered out of the press, and notwithstanding any agreement, if the book is published, between the printer and publisher thereof, deliver at his own expense one copy of the book to the Librarian of the Deposit Section of the Library of the University College, Dar es Salaam, and one further copy to such person and at such place as the Minister may by order direct”.

The University College Library – Dar es Salaam was the first legal deposit library in the country when the law was passed in 1962. All the books which were collected as part of legal deposit were kept in East Africana Collection. Under the provisions of section 2 of the Act, the term “book” is defined to encompass:

“every part or division of a book pamphlet, newspaper, periodical, magazines, review, gazette, sheet of letterpress, sheet of music, plan, chart or table separately printed, but does not include any second or subsequent edition of a book, unless such edition contains editions or alterations either in the letterpress or in the maps, prints or other illustrative materials belonging thereto.”

In Tanzania development of legal deposit became operative in 1975, when the Tanzania Library Services Board Act, 1975 came into operation. The Board assumed the activities of its predecessor the Tanganyika Library Services Board. While imposing a duty to supply copies of books to the Board on the part of any printer or producer of books, the Act provides under Section 5(2) that:

“it shall be the duty of every person who prints or produces or causes to be printed or produced in Tanganyika any book or other literary work intended for sale or public distribution or exhibition, whether in consideration of any fee or otherwise, to supply the Board, free of charge, not less than two copies of such book or other literary work: Provided that in the case of any gramophone record, film, or other book, not being a printed material, the Board may direct that, the person producing the same shall supply the Board with one copy only”.

The Act also imposes a penalty for failure to deliver the required number of books to the Tanzania Library Services Board. Any person who fails to comply with the requirement of subsection (2) of section 5 of the Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three years or to both fine and imprisonment.

Another law which established a legal deposit status is the Sokoine National Agriculture Library Act, 1991, Act No. 7 of 1991. Pursuant to section 4 (3) of this Act, “the Library shall be both the library of the University as well as a National Agricultural Library for the United Republic”.

Unfortunately, the Act does not define the term “library”. However, resort has to be made to the Libraries (Deposit of Books) Act 1962 which defines “Library” under section 3 to mean a place to which there shall be delivered for deposit a copy of every book printed in the United Republic of Tanzania. Likewise the Tanzania Library Services Board Act 1975 defines “Library” to mean any organized collection of printed books and periodicals or of any other graphic or audio-visual materials.

Apart from making it mandatory for printers or producers of books to submit or produce copies of such books to the library, the law imposes duties to a depository library. Under section 2(e) of the Sokoine National Agriculture Library Act, 1991, a depository library will act as national bibliographic and documentation centre that include a repository of published and unpublished materials on agriculture and related fields, legal deposit right, indexing, abstracting and compilation of national agricultural bibliography.

Unlike Libraries (Deposit of Books) Act, 1962 and Tanzania Library Services Board Act, 1975, for the first time the Sokoine National Agricultural Library Act, 1991 imposed the obligation for a deposit library by “indexing, abstracting and compilation of national agricultural bibliography” which is a usual practice all over the world for depository libraries. On the other hand, in the case of the University of Dar es Salaam its legal deposit status was removed by the Written Laws (Miscellaneous Amendments) Act, No 11 of 1976.

However, as already stated the above submission shows what is offered, in the main, by the law on legal deposit in Tanzania. It is true that our law does not conform to modernity when compared to other jurisdictions as the forthcoming section of the paper will demonstrate. We hasten to say that the following discussion will move us to suggest that there is a need to have modern legislation in the country.

Librarians and Publishers Views on Legal Deposit Laws of Tanzania

Let us now examine whether librarians and publishers are aware of the existing Legal Deposit Laws in the country. For the purpose of this discussion the author of the paper conducted an interview with librarians and publishers to get their perception, problems and suggestions on legal deposit. The interviewer schedule involved both academic and public libraries. On the part of publishers, two publication firms namely Government Printers and Dar es Salaam University Press Ltd. were contacted for interviews. The oral interviews yielded much opinion as personal contact afforded them the opportunity to express their views on this issue.

Generally through the interview conducted it has been observed that, the librarians are aware of the existing law. They however, have the opinion that, there is a need of reviewing it. They commented that;

the law is almost forty years old, and with this regard the concept of a "book" has been changing with new technologies of recording knowledge which emerge from time to time. It is not however as comprehensive as it should be in order to cover all varied formats of recording and presentation of knowledge currently available for instance the CD ROMS.

Other elements which the librarians interviewed showed their concern include which of the two ministries, that is, Ministry of Education and Culture and the Ministry of Science, Higher Education and Technology, is responsible for declaring a library a legal deposit.

For those publishers interviewed, it appears that they are aware of the law, and as a matter of fact, they are practicing it. However they have advised that efforts should be made by recipient institutions to publicize the books received under the depositing law. This is aimed at creating a spirit of appreciation to their contribution. Equally important, is their suggestion that, legal deposit libraries should organize meetings with publishers from time to time for the purpose of creating a spirit of knowing and understanding each other.

Legal Deposit Laws of Other Countries

There exists various forms of legal deposit laws in the world. In some countries, the scope of legal deposit is established through an Act which specifically deals with legal deposit. For instance in South Africa, Norway and Sweden, whereas, in other countries such as Great Britain, United States of America, Australia, legal deposit is embedded through a Copyright Legislation. For a country like the Netherlands, a national collection deposit is based on voluntary deposit arrangements between the national library and the publishers. In other jurisdictions it is based on the form of an administrative decree or ordinance for example Cuba and Nigeria. The law on legal deposit in Canada is contained in the National Library Act of 1995. In order to have an in-depth analysis of what is obtained in other countries as far as legal deposit is concerned we shall look at the experience of Canada, USA and South Africa.

Canadian Experience

Legal deposit in Canada is regulated by the National Library Act, 1995 and National Library Book Deposit Regulations, 1995. They apply to all types of publications in various formats.

The 1953 legislation which applied primarily to books, was extended to include serial publications in 1965, sound recordings in 1969, multimedia kits in 1978, microforms in 1988, CD-ROMS and video recordings in 1993, an electronic publications on all types of physical formats in 1995.

A publisher of a "book" published in Canada is required under section 13 (1) of the Act, to send two copies to the National Librarian at his own expense and it must be done within one week after the date of publication. In section 4, publishers are required to send to the National Librarian only one copy of books in the following classes:

- Musical sound recordings, multimedia publications consisting of two or more physical parts in different formats; and
- books produced for initial release in fewer than 101 copies.

Under Canadian National Library Book Deposit Regulations, 1995; publishers are not required to send copies of books unless the national librarian specifically requests them. This however covers the following classes of publications:

- Newspapers printed on paper,
- Trade catalogues or advertisements,
- Forms, wrappers, labels, prospectuses and price lists,
- Publications wholly or mainly in the nature of timetables of transport Services,

- Publications wholly or mainly in the nature of blank books or account blank forms of receipts or other forms of a similar character,
- Publications wholly or mainly in the nature of calendars and agendas without narrative text,
- Drawing and colouring books with simple text and books of cut-outs for children,
- Printed books that are only manufactured or distributed in Canada and are not published under the imprint of a Canadian publishers,
- Books or book objects produced by artists where the artist is directly involved in the artistic creation of each copy such as hand coloring or paper sculpting,
- Sound recording that are only manufactured or distributed in Canada and that have no Canadian content or major Canadian contributor such as a composer, artist, narrator, conductor, orchestra, performer, writer or producer,
- Books produced for initial release in fewer than four copies,
- On-line deliberations of electronic discussion groups,
- Press releases and circular,
- Separately published maps,
- Programs of activities and events, and
- Reissues of books or portions of books that are not substantially different from copies already deposited.

Yet the following classes of publications are covered by the Regulations under consideration:

- Newsletter of local interest, such as those that are published by associations, parishes, employees' groups, union locals, schools or governments,
- Unpublished student reports, theses and other works produced to meet course requirements,
- Minutes of meetings and by-laws,
- Posters and banners,
- Patterns models, plans and blue prints,
- Galley copies or manuscripts,
- Individual photographs,
- Bookmarks, and
- Elementary and Secondary School Yearbooks, and Games.

The terms "book" and "published in Canada" are explicitly defined in Section 2 of the Act. The term "book" is defined to encompass" library matter of every kind, nature and description and includes any document,

paper, record, tape or other thing published by a publisher on or in which information is written, recorded, stored or reproduced, while the term published in "Canada" is defined to mean "released in Canada for public distribution or sale."

The definition of a "book" has been changing gradually with time, for instance in the Act, (of 1953) the term "book" was defined as "library matter of every kind, nature and description". However, when the Act was revised in 1969 the following supplementary wording was added "to include any document, paper, record, tape or other thing published by a publisher or in which information is written, recorded, stored or reproduced". At present, the National Library acquires CD-ROMS, CD-IS and some electronic publications have been identified as materials subject to legal deposit by referring in their legislation to the necessity of depositing a physical item or publication in a fixed format.

The United States of America Experience

In the United States of America (USA) deposit of materials for the Library of Congress is covered by the copyright law. Legal deposit regulations contain no limitations to materials subject to deposit, as a result the library has continued to collect the materials in all formats. The mandatory deposit provisions are found in Section 407 of the Copyright Act of 1976. The provision requires the owner of copyright or of the exclusive right of publication to deposit with the copyright offices two copies or (phonorecords) of any work published in the United States for use or disposition of the Library of Congress. The law imposes a time frame for the creator of the work to deposit a publication and it sets a fine for failure to comply.

South African Experience

South Africa has a long history of Legal Deposit. This is evidenced by Lor and Geustyn (2001) who pointed out that Legal Deposit legislation has been in existence in one form or another since 1842. In South Africa matters pertaining to the legal deposit are governed and regulated by the Legal Deposit Act, 1997(hereafter referred as Act No 54 of 1997).

When the Republic of South Africa was established in 1961 a new dispensation of legal deposit was introduced, which was embodied in the Copyright Act, 1965 (Act No 63 of 1965), and Legal Deposit of Publications Act, 1982 (Act No. 17 of 1982) now repealed, and by the Legal Deposit Act, 1997.

The 1997 Act, regulates matters pertaining to legal depository in South Africa. Section 2(1) of the Act, makes provisions for the supply of certain publications to legal deposit libraries. As such every publisher has for each published document supply to the prescribed places of legal deposit the

prescribed number of copies in the format and of the quality prescribed for each version and type of medium. However, the prescribed number of copies of documents other than official publications shall not exceed five. The cost of supplying such documents shall be the responsibility of the publisher who is supposed to dispatch the documents within fourteen days from the day on which it has been published.

By virtue Section 1 (iii) of the Act the term “publications” has been extended, while the term "document" has replaced the term "book". The term "document" in the new Act is more comprehensive and focused. It is defined to include:

"any object which is intended to store or convey information in textual, graphic, visual, auditory or other intelligible format through any medium, and any version or edition of a document which is significantly different from that document in respect of its information content, intelligibility or physical presentation is considered to be a separate document".

The term medium is also defined to include:

- any means of recording or transmitting information intended for subsequent reading listening or viewing.
- Therefore, it is worth noting Section 1(iii) of the Act ensures that all kinds of published materials which are produced in multiple copies and offered to the public regardless of the means of transmission, now fall within the scope of legal deposit.

One of the main responsibility of legal deposit library is to assemble comprehensive collections of the published outputs of their nation's, record and organize them for use, and to reserve them for future generations. The South Africa Act. No. 54 of 1997, Section 7, provides for the duties of places of legal deposit to include,

- (a) receive, accession, retain and preserve,
- (b) catalogue or inventorize, and
- (c) ensure freedom of access to the documents supplied.

Section 6 of the Act empowers a number of libraries to be places of legal deposit. These include:

- City Library Services, Bloemfontein;
- The library of Parliament, Cape Town;
- The Natal Society Library, Pietermaritzburg;
- The South African Library, Cape Town;

- The State Library, Pretoria;
- The National Film, Video and Sound Archives, Pretoria.

Furthermore, section 7 (2) provides that, the State Library shall, with the assistance of other places of Legal Deposit and other appropriate libraries or institutions compile:-

- (a) a national bibliography and
- (b) statistics of the South African production of published documents.

Deducing from what is provided by other countries with respect to legal deposit , it is clear that a lot is gained as submitted below:

Lessons and relevance of foreign countries experience

From the foregoing analysis, it is clear that, the existing Legal Deposit Laws of Tanzania such as those which empowers the Tanzania Library Services Board, and the Sokoine National Agriculture Library Act, to deal with legal deposit are neither elaborate nor specifically set to accommodate the changes which occur all over the world. These laws need to be reviewed in order to accommodate changed circumstances and technological developments.

Traditionally, legal deposit applied to print publications because for centuries, the traditional means of storage and display of information was based on print medium. However, due to technological development, there exists paradigm shift as a number of publications are produced in other new formats such as CD-ROMS, diskettes etc. which also form part of the country's national heritage.

In jurisdictions, such as those of Canada, South Africa and the United States of America, legal deposit legislations have undergone substantial evolution so as to accommodate new changes by broadening the definition of the terms "document" in the case of South Africa, and "book" in Canada. In both cases electronic publications are also subject to Legal Deposit.

Similarly, to the ongoing discussion, Legal Deposit Laws of Tanzania are not well coordinated, but mere fragmented pieces of legislation, which are neither elaborate nor comprehensive as compared to countries surveyed, where they have laws which deal specifically on matters pertaining to legal deposit. Furthermore, Tanzania being a vast country and as many universities are established in the regions, one wonders whether it is reasonable in terms of security and accessibility to put all the national heritage of the country in two places only as stipulated in the Tanzania Library Services Board Act, 1975, as well as in the Sokoine National Agricultural Library Act, 1991.

Conclusions and Recommendations

It is evident that the current existing legal deposit laws of our country need to be revised so as to improve the scope of their operations. The following recommendations are geared towards stimulating discussions and explore the way forward:

- (a) Librarians, Universities and other stakeholders should work together and come out with a comprehensive and up to date legal deposit law, which will encompass all kinds of published materials offered to the public regardless of the means of transmission. On the same line, efforts should be made to convince the Law Reform Commission to come up with an umbrella Act which will cater for legal deposit.
- (b) To look into the possibilities of increasing the number of Legal Deposit entities for the purpose of making it possible for many people to have access to national heritage, bearing in mind that Tanzania is a vast country.
- (c) To restore the status of the University of Dar es Salaam Library in relation to Legal Deposit because it is more equipped in terms of resources and preservation capability which is a pre-requisite element required in preserving national heritage.
- (d) As many universities, and other higher learning institutions are established all over the country, certain libraries in the regions should be designated to act as Legal Depository. Also on the same line of discussion, suffice to suggest that, certain libraries should be designated as subject depository libraries. In the material time only Sokoine National Agricultural Library which deals with agricultural publications has such a status. This should be extended to other institutions, for instance the Open University of Tanzania to deal with publications related to Distance Education.
- (e) Efforts should be made to enlighten and sensitize authors, publishers, printers, librarians and other stake holders the importance of legal deposit.
- (f) To make it mandatory for all legal deposit libraries to publish and disseminate the list of items received.

In view of the experiences gained from other countries, it is suggested that there is a need to reform the existing legal deposit law to conform with technological development. This should adopt participatory approach which

will involve libraries, librarians, publishers, Tanzania Library Association and other stakeholders like higher learning institutions.

References

- Jasion, J. Y. (1991). *The International guide to legal deposit*. Aldershot: Ashgate.
- Leshela, P.Z. and Lor, P. J. (2002). "Implementing legal deposit of electronic publications in Africa: progress report from South Africa and Namibia." 68th IFLA Council and General Conference, Glasgow, August 18-24.
- Lor, P. J. (1995). "Legal deposit some issues in the international scene." *Mousaion*, 13: 94-111.
- Lor, P. J. and Geustyn, M. (2001). *The South African Imprint: bibliographic control and access*. Unpublished paper delivered at the International Conference on colonial and Post – Colonial cultures of the Book. Grahamstown, 6-8 August 2001.
- Rugaas, B. (1994). *Developing a new national library in Norway*. *Alexandria*, 2(1): 41-49.
- Samzugui A. S. and Mukoyogo M. C. (2001). *A draft proposal to make The Open University of Tanzania Resource Centre a library and Legal deposit*. A paper delivered at the Library Committee Meeting. (unpublished).

Legislations Cited

1. The National Library Act, 1995 (Canada).
2. The National Library Book Deposit Regulations, 1995 (Canada).
3. The Legal Deposit Act, 1997 (South Africa). (No.54 of 1997)
4. The Digital Millennium Copyright Act, 1998 (USA).
5. Libraries (Deposit of Books) Act, 1962 (Tanganyika). (No.74 of 1962)
6. The Sokoine National Agricultural Library Act, 1991 (Tanzania). (No.7 of 1991)
7. The Tanzania Library Services Board Act, 1975. (No. 6 of 1975).