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The Legal Responses to Plagiarist Academics: The Practicality of Regulations in Turkish Higher Education

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Abstract

This study follows a basic pattern of qualitative research while examining the practical manageability of Turkish regulations against plagiarism in academic platforms. The dataset comprises the Law of Intellectual and Artistic Works and four higher education regulations. This study analyses the related documents according to descriptive analysis. The analysis shows that the variety of legal regulations have led to a sophistication of procedures following during the investigation and decision-making of plagiarism cases in academic platforms. Therefore, higher education authorities should make an effort to constitute one unified, comprehensive and detailed law against unethical behaviours, mainly plagiarism, in academia.

Keywords: Plagiarism in academic platforms, Legal responses to plagiarism, Case of Turkish regulations, Practicality of plagiarism regulations

Introduction

Plagiarism is one of the most serious problems concerning intellectual property. In particular, the music and film industries have detailed laws and regulations of copyright to prevent plagiarism. The publishing sector also witnesses many lawsuits related to similarities in various books as a sign of plagiarism. In addition to books, academic publications include monographs, theses, dissertations, scientific articles, project reports, research data, and conference papers that are common sources of plagiarised ideas (Demircioğlu, 2014a; Macfarlane et al., 2014; Özenç-Uçak & Birinci, 2008; Regmi, 2011). Although many countries have established complex legal measures to inhibit plagiarism in academia, such laws and regulations contain practical deficiencies from the definition of plagiarism to the implementation of penalties.

Plagiarism is defined as taking someone else's words or ideas and using them without properly crediting the original sources (Blum, 2009). As is widely known, plagiarism includes "handing in someone else's work as your own, copying words/ideas without proper citation, giving incorrect information about the source, changing words but copying sentence structures without citation, and copying so many words/ideas from a source even you cited it" (plagiarism.org, 2017, December 9). To prevent such unethical usage of other people's words/ideas in students' work, universities have developed various policies and practices including academic honesty codes (McCabe et al., 2002), 'research and publication ethics' courses (Beauvais et al., 2007), and punishments for plagiarist students (e.g., failing the course, temporary debarment, or dismissal from the university) (IPPHEAE, 2013; Larkham & Manns, 2002; Walker & White, 2014). Universities also impose serious penalties against plagiarist academics, but the examination and adjudication process for plagiarism cases differs because of legal regulations in their home countries (Berlinck, 2011; Demircioğlu, 2014b; Gücüküoğlu & Ayvaz-Reis, 2014; IPPHEAE, 2013; Sonfield, 2014; Sutherland-Smith, 2011).

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Developed countries accept plagiarism as an illegal action and respond to plagiarism issues in their intellectual property rights (IPR) and copyright laws (i.e., IPR and Copyright Acts, Canada (CIPO, 2017)). Research councils in these countries have mostly established a comprehensive set of codes for ethical research conduct (i.e., The Australian Code for the Responsible Conduct of Research (ARC, 2007)). These countries also have nationwide academic associations, and such associations generate policy suggestions for faculty discipline including plagiarism acts (i.e., Faculty Misconduct and Discipline in the United States of America (AAUP, 2005)). Combining IPR and copyright laws, codes for responsible research conduct and policy suggestions for faculty discipline, universities in developed countries have generally formed their own policies and practices against plagiarism (Uslu, 2017).

Similarly, universities in many European countries such as Germany, Finland, France, the Netherlands, or the United Kingdom (Glendinning, 2013a; 2013b; 2013c; 2013d; 2013e) have established institutional regulations to prevent plagiarism. However, other developed countries around Europe such as Italy, Sweden, or Spain (Demoliou, 2013; Foltynnek, 2013; Glendinning, 2013f) have a nationwide/state-wide higher education management unit that manages all sorts of legal regulations. There are also many developing European countries (e.g., Hungary, Lithuania, Romania (Glendinning, 2013g; 2013h; Stabingis, 2013)) in which universities are governed by a national unit. These national management units both in developed and developing European countries have largely determined the legal responses to plagiarism, and their regulations guide the actions against plagiarist academics in universities (IPPHEAE, 2013). Each European university system has also benefitted from Europe-wide policies for IPR/copyright and research integrity to develop preventive mechanisms against plagiarism (ALLEA, 2000; 2017; EC, n.d.; SE, 2016). Despite these European frameworks, policies for plagiarism in European academia are highly inconsistent, and legal procedures in each European country face various impracticality concerns (IPPHEAE, 2013).

As a candidate country for the European Union, Turkey has also followed European policy recommendations. To adapt to European policy frameworks, Turkey recently updated The Law of Intellectual and Artistic Works that was originally published in 1951 (Turkish Official Gazette, 1951). The Council of Higher Education in Turkey (YÖK) – a nationwide higher education management unit – has also disseminated the Principles for Ethical Behaviours in Higher Education Institutions (YÖK, 2014). Moreover, YÖK (n.d.) has also published “Instructions for the Ethics of Scientific Research and Publication in Higher Education Institutions”. In addition to this legal document, the Interuniversity Board in Turkey (ÜAK) formulated “Regulation for the Examination on Associate Professorship” to guide the investigation of unethical cases in nationwide tenure applications (Turkish Official Gazette, 2015). Furthermore, the Turkish government has specified national faculty-discipline regulations, including serious penalties for plagiarism such as dismissal from the academic profession (Turkish Official Gazette, 2016).

Examining the gaps in these Turkish legal documents will be helpful in evaluating similar deficiencies within procedures against plagiarist academics in other European countries. There are also many countries outside Europe where academic corruption, dishonesty, and misconduct are a rising problem (e.g., China, Middle Eastern countries, and South Africa (de Jager & Brown, 2010; Horn, 2017; Macfarlane et al., 2014; McCabe et al., 2008; Moten, 2014; Yang, 2005)). Moreover, developed countries such as Australia and Canada (Devlin, 2003; Egan et al., 2016; McKee & Belson, 1990; Sharman & Wilshire, 2007) have established serious penalties to minimise plagiarism cases in universities. Investigation of Turkish legal regulations against plagiarism may also provide valuable insights for countries outside Europe to query the applicability of their regulations against plagiarism. Therefore, the purpose of this study is to define the legal responses in Turkish laws to plagiarist academics and to examine the practical manageability of Turkish regulations against plagiarism in academic platforms. For this purpose, the research questions are:

1. How was plagiarism defined in the Turkish legal regulations?
2. What are practical implications against plagiarist academics in the Turkish legal regulations?

Methodology

This study was designed in a basic pattern of qualitative research. Merriam (2013) describes a basic qualitative design as a pattern used by researchers to define and understand the constructionism and/or symbolic interaction within the dataset including people's views or other sources such as written/audio/visual materials. Following this definition, the researcher analysed the Turkish case of legal regulations against plagiarism in academia.

Data Sources

In this study, the dataset is composed of varied Turkish laws that address acts of plagiarism. Therefore, the dataset here includes secondary data through the related documents. The documents were collected from the official websites of governmental units such as The Legislation Information System of the Turkish Prime Ministry, YÖK, and ÜAK. The documents in the dataset are:

- i. The Law of Intellectual and Artistic Works (Turkish Official Gazette, 1951).
- ii. Principles for Ethical Behaviours in Higher Education Institutions (YÖK, 2014).
- iii. Instructions for the Ethics of Scientific Research and Publication in Higher Education Institutions (YÖK, n.d.).
- iv. Regulations for the Examination on Associate Professorship (Turkish Official Gazette, 2015).
- v. The Law for Changes in the Structure and Duties of the Ministry of National Education (introduced the latest faculty discipline codes) (Turkish Official Gazette, 2016).

Data Analysis

During the analysis, the researcher carried out document analysis (Bowen, 2009) and benefitted from the descriptive analysis technique (Neuendorf, 2017). For document review, descriptive analysis is the examination of data sources to specify the existing parts, sections, or information related to a topical concept (Miles & Huberman, 1994). Following the descriptive approach, the researcher firstly overviewed the documents to identify sections related to plagiarism. Based on the titles of related documents and also previous studies in Turkey (i.e., Alev & Genç, 2015; Demiral-Bakırman, 2015; Demircioğlu, 2014a; 2014b; Gücüküoğlu & Ayvaz-Reis, 2014), the researcher coded these sections specifically to explore the connection between plagiarism and IPR, definition of plagiarism on academic platforms, official structures for plagiarism control, and penalty system for plagiarising academics.

The researcher then double-checked with the assistance of another researcher who has qualitative inquiry experience to re-code these documents. The inter-coder reliability was calculated as .81 using Miles and Huberman's (1994) formula [$\text{consensus on data} / (\text{consensus on data} + \text{dissidence on data})$]. An inter-coder reliability of .70 (at least) is accepted as a sign of adequate internal reliability. After ensuring internal reliability, the researcher enumerated the legal regulations against plagiarism cases in universities. The researcher then presented the results of the analysis for each legal document, as in the next section.

Findings

The first legal document examined in the study was The Law of Intellectual and Artistic Works (Turkish Official Gazette, 1951). Although this law was originally published in 1951, it contains many updates and additions such as the latest changes of October 01, 2017. This law does not include the word 'plagiarism', but does include several sections referring to plagiarism from varied sources (e.g., scientific and literary works, musical works, fine art works, and cinematographic works).

For example, article 71 (sub-article 1) in the document states: "A person who puts his/her name on others' work and presents the work as his/her own is punished with six months to two years imprisonment or a judicial fine. If the person disseminates the work in question, he/she is punished with up to five years imprisonment and there is no consideration for a judicial fine" (Turkish Official Gazette, 1951, p. 2413). Article 71 (sub-article 3) also indicates: "A person who quotes from other works without citing the source is punished with six months to two years imprisonment or a judicial fine" (Turkish Official Gazette, 1951, p. 2413). Lastly, article 71 (sub-article 5) states: "A person who improperly cites the source(s) via insufficient, wrong, or fallacious citations in his/her own work is punished with up to six months imprisonment" (Turkish Official Gazette, 1951, p. 2413). All these sections clearly show

that plagiarism is an illegal action within the scope of IPR in Turkey. However, this document does not present any criterion or procedural direction to decide in plagiarism case(s), especially on academic platforms, whether they occurred or not.

The second legal document in the dataset is the Principles for Ethical Behaviours in Higher Education Institutions (YÖK, 2014). This document presents definitions of various unethical academic behaviours (e.g., fabrication, falsification, duplication, slicing, unfair authorship, and violating the principle of voluntary participation). According to the document, plagiarism means “to present and publish others’ ideas, methods, data, works, and publications partially or completely as the presenters’ own work without proper scientific citations to correctly indicate the original source(s) or without necessary permissions” (YÖK, 2014, p. 2). The document expands the definition of plagiarism as “taking others’ findings or artistic works without indicating their source (via italics, quotation marks, footnotes, etc.), presenting others’ ideas by paraphrasing in their studies without proper citations, or improperly/fallaciously citing the original sources” (YÖK, 2014, p. 6). Beyond a detailed definition of plagiarism acts, the document does not offer any direction regarding how university authorities should deal with plagiarism cases in academic publications.

Another legal regulation is the Instructions for the Ethics of Scientific Research and Publication in Higher Education Institutions (YÖK, n.d.). In this, plagiarism is accepted as one of the most common unethical behaviours in academia and defined as “presenting partially or completely others’ ideas, methods, data or works as his/her own work without properly citing the original source(s)” (YÖK, n.d.). The law regulates the criteria for constituting research ethics committees in universities. For example, universities can set up separate ethics committees for social sciences and humanities, health sciences, and science and engineering; and each committee must be composed of seven professors from the related disciplines.

Furthermore, the document outlines the procedural steps for ethics committees to examine ethical violations in universities. In brief, these steps are: a) collecting all information and documents related to the assertion(s) of unethical behaviour, b) opening and recording the file for each violation case, c) informing ÜAK whether the accused academic is in the process of the national examination for associate professorship, d) taking written defence/apologia from the accused academic, e) discussing and voting on the ethical violation case in the related ethics committee, f) presenting the official decision regarding the ethical violation case to the rectorate. According to this document, following the related legislation, the university rectorate is responsible for carrying out the administrative, legal, and penal process for the academics (except those involved in examination for nationwide tenure) who violate the ethics of scientific research and publication. Although the document introduces a clear definition of plagiarism on academic platforms and duties for the ethical committees in universities, it does not include any criterion or directive to highlight what can be counted as evidence for the plagiarism act (i.e. similarity reports, expert opinions, etc.), how intended plagiarism can be distinguished from accidental plagiarism, how the committee decides on the scope of the plagiarism, or the appropriate punishment(s) for the plagiarism case.

On the other hand, YÖK reports assertions related to ethical violations by academics to ÜAK if someone reports a suspicious situation(s) related to unethical behaviours to YÖK instead of the related university. Last year, YÖK delegated its authority to ÜAK to carry out investigations regarding reported unethical behaviours by academics (YÖK, 2016). ÜAK operates the directives in The Regulation for the Examination on Associate Professorship about the reported plagiarism suspicions (Turkish Official Gazette, 2015). In this document, ÜAK follows a similar procedure in universities to constitute ethics committees. These ÜAK ethics committees are responsible for investigating plagiarism suspicions both for academics currently in the process of tenure examination or academics accused of plagiarism to YÖK. To check reported plagiarism suspicions, ÜAK constituted three independent ethics committees, namely, for science and engineering, health and sports sciences, and social sciences, arts and humanities (Turkish Official Gazette, 2015).

According to the Regulations for the Examination on Associate Professorship, the ÜAK ethics committees firstly carry out a preliminary examination of the documents related to the plagiarism (and also other types of unethical behaviours) accusation to decide whether the documents are sufficient to proceed to detailed investigation (Turkish Official Gazette, 2015). However, the document does not provide any information about the types of evidentiary documents for plagiarism act(s). The document does not also include any article to highlight whether the committee has to take written or oral defence from the accused academic. Article 7 in the document only states that the scientific jury will continue with the tenure examination if the assertion of plagiarism is not true for the accused academic (Turkish Official Gazette, 2015). The same article also indicates that ÜAK will accept the candidate as having failed in the tenure exam and will request YÖK and the related university (generally via YÖK) to apply the anticipated discipline and administrative processes (Turkish Official Gazette, 2015).

Although The Law of Intellectual and Artistic Works indicates possible punishments for plagiarists (if the plagiarism accusation is investigated in court), the other three laws-regulations established by nationwide higher education units such as YÖK and ÜAK do not propose any punishment for plagiarism or other unethical behaviours in academic platforms. However, the Turkish government recently published The Law for Changes in the Structure and Duties of the Ministry of National Education and regulated anticipated punishments against unethical behaviours in academia (Turkish Official Gazette, 2016). Article 26 (sub-article b) in this document states that anticipated punishments for unethical behaviours in (public or foundation–non-profit private) higher education institutions include: an official warning, reprimand, reduction of salary (one-off or regular), freezing of promotion, dismissal from the academic profession, and dismissal of public servant professions. Article 26 allows adding all these punishments to The Law of Higher Education (Turkish Official Gazette, 1981) and The Law of Public Servants (Turkish Official Gazette, 1965).

This latest regulation (Turkish Official Gazette, 2016) does not include the word ‘plagiarism’ as a term, but contains the same definition of plagiarism as in the Instructions for the Ethics of Scientific Research and Publication in Higher Education Institutions (YÖK, n.d.). Article 26 (sub-article b-5) in this regulation suggests dismissal from the academic profession for plagiarist academics (Turkish Official Gazette, 2016). This is a serious punishment for academics because academics in Turkish public universities are employed with civil servant status. YÖK also informs each public and foundation university of the names of plagiarist academics; therefore, there is no way for plagiarist academics to obtain another academic position in other Turkish universities.

However, the document indicates that ‘scientific research and publication’ ethics committees – without stating which committee (university or ÜAK) is responsible – must carry out a preliminary check for ethical violation accusations (Turkish Official Gazette, 2016, p. 5). Interestingly, the document proposes a punishment of salary reduction (single time) for those who make groundless assertions related to ethical violations (Turkish Official Gazette, 2016, p. 5). With this regulation, the accused academics have the right to examine the reported documents, to call witness(es), and to present a written/oral defence (Turkish Official Gazette, 2016, p. 6). Ethics committees can also request an expert opinion from various people including senior academic staff who work in the same discipline as the accused academic (Turkish Official Gazette, 2016, p. 7). Despite such fair directions, the document states only that the High Discipline Board has the right to implement dismissal from the academic profession (Turkish Official Gazette, 2016, p. 7). In the document, the High Discipline Board is defined as the Higher Education Council (the top management board in YÖK), but there is no information about the criteria for the final decision of the Higher Education Council. In addition, the document does not give any information to outline how ethics committees or boards/councils distinguish intended and accidental plagiarism, or determine the seriousness of the plagiarism act if it is intended plagiarism.

Discussion and Conclusion

In this study, the legal responses to plagiarist academics were outlined through official documents in Turkey. The explicitness of definitions and rules related to plagiarism was also examined in these legal regulations. Furthermore, the practicality of Turkish regulations is discussed below in terms of the manageability of official procedures to evaluate plagiarism acts in academic platforms.

The analysis contains five different legal documents from three different Turkish management units, namely The Prime Ministry of Turkey, YÖK, and ÜAK. It can be understood that each document aims to regulate a different issue related to unethical behaviours, including plagiarism. However, these documents lead to sophistication of procedures following during the investigation and decision-making of plagiarism cases in academic platforms. For example, one document proposes a simple but an admissible definition for plagiarism acts in academia (YÖK, n.d.) while another expands the definition of plagiarism to include the rules of proper citations that each academic is expected to know (YÖK, 2014). As a prominent problem in practicality, this definitional extension does not offer any criteria to decide whether the plagiarism act is intended or not. Moreover, the analysed documents do not anticipate any differentiation between intended and accidental plagiarism in terms of punishment. Many studies (Demiral-Bakırman, 2015; Özenç-Uçak & Birinci, 2008; Sonfield, 2014; Sutherland-Smith, 2010; Ünal et al., 2012; Yanikoski, 1994; Yorke et al., 2009) confirmed that distinguishing intended and accidental plagiarism and deciding the severity of anticipated punishments are important administrative problems all around the world.

Additionally, the documents in the dataset create a duality related to which ethics committee (university or ÜAK committee) is responsible for carrying out the investigation while universities are responsible for operating lawful, administrative, and punitive processes in all cases. As another point, they indicate only the establishment of three broader disciplinary ethics committees with seven members on each committee, both at university and national (ÜAK) levels. Alev and Genç (2015) discussed that no one person could master such a large disciplinary area to evaluate any plagiarism case via only his/her expertise knowledge, and the absence of sub-committee structure is an important omission in the smooth management of plagiarism investigations in Turkish academia. De Wet (2010) and Egan (2016) put similar arguments forward in their studies on ethics committees in other countries. Hoover (2006) and Downes (2017) also claimed that both plagiarist academics and their universities lose more prestige with each plagiarism case, so university ethics committees might tend to focus only on negligible points instead of seeking undeniable evidence during the plagiarism investigations. To avoid such an approach to plagiarism suspicions, Turkish higher education authorities as well as higher education policy-makers in other countries can establish only one nationwide ethics committee including at least one member from each discipline and can delegate power to this committee to form a sub-committee (composed of members from the same/the closest discipline of the accused academic) for each unique plagiarism case.

National research councils in many countries (with the exception of the European Research Council) have published codes of conduct for ethically responsible research as a guidance for universities to establish their own 'research and publication ethics' scheme. However, many researchers (Blum, 2009; Macfarlane et al., 2014; McCabe et al., 2003; Sutherland-Smith, 2010; 2011; Walker & White, 2014) argued that the variety of universities' research ethics and academic integrity structures have caused inconsistency in plagiarism investigations and in anticipated preventive and punitive measures. In this aspect, higher education systems governed by a central unit might benefit from the regulatory power of a national higher education management unit to ensure consistency in legal responses to plagiarism (and also other unethical behaviours) in universities. For example, YÖK could institute one comprehensive law that embodies academic integrity rules, definitions and signs of unethical behaviours, and the organisation of investigative structures could form a uniform legal procedure in terms of the investigation process and preventive/punitive measures against unethical behaviours in Turkish universities.

In most cases, Turkish academics who are victims of plagiarism or their legal representatives (generally publishing firms) go to court if the plagiarist person/people have commercially published and disseminated the victim's work as their own publication (Demiral-Bakırman, 2015; Demircioğlu, 2014a). According to The Law of Intellectual and Artistic Works (Turkish Official Gazette, 1951), Turkish courts generally evaluate such cases as a copyright violation and punish the acts with an administrative fine (rarely with imprisonment). This law is important in acknowledging plagiarism acts as IPR violations, but gives all authority to the court judge due to lack of clear criteria on deciding whether plagiarism has occurred or not. Furthermore, neither IPR law nor higher education law includes

any section, article, or direction to guide the evaluation of plagiarism from works in other languages into Turkish works, despite the experience of legal cases on the suspicion of crosslingual plagiarism by the ex-president of YÖK. Many researchers (Cezka et al., 2008; Potthast et al., 2011; Sousa-Silva, 2014) agreed that it is not easy to detect multilingual plagiarism acts. Legal procedures should therefore include special rules, especially about the usage of ICT technologies, similar to monolingual plagiarism cases.

All in all, the Turkish case of legal responses to plagiarist academics includes various higher education regulations and the IPR law. These regulations generate various obstacles that limit the practical manageability of the legal procedure against plagiarism acts. First of all, Turkish laws create difficulty in defining acts within the concept of plagiarism. Moreover, they do not include any direction to distinguish intended and accidental plagiarism nor evaluate both types of plagiarism with the same perspective. Only one regulation, The Law of Higher Education (Turkish Official Gazette, 1981) with its latest updates, specifies the same punishment for each sort of evidenced plagiarism act by academics. This law proposes dismissal from the academic profession for plagiarist academics without overseeing the extensiveness of plagiarism.

Against this serious punishment, the higher education regulations in the dataset create another practicality problem related to the investigation and decision-making process for plagiarism cases. They include only the establishment of ethics committees both at university and national level for various discipline areas, but do not provide any information to answer several important, pertinent questions. What is acceptable evidence for the plagiarism accusation? What are the roles/duties of committee members? How does the committee benefit from experts? What are the criterion/criteria in selection of experts? In addition to the initial defence, does the committee give another opportunity in the last phase of the investigation to the accused academics to present his/her final defence against the projected evidences? Although The Law of Intellectual and Artistic Work (Turkish Official Gazette, 1951) adds an administrative fine and imprisonment as two more types of punishment for plagiarism acts within the framework of IPR/copyright violation, this law also includes undetailed directions for plagiarism cases.

To eliminate all the practical imperfections outlined above, Turkish lawmakers should constitute a long, detailed, but unified and comprehensive law against unethical behaviours, mainly plagiarism, in academic platforms. Turkish authorities should also add informative-preventive measures (e.g., 'research and publication ethics' training, ethical contracts with academic staff, or interactive ethics guidelines for academic staff) in addition to thorough punishments. It is obvious that such an exemplary law will have the potential to become a global reference for other countries concerning academic integrity and research ethics regulations.

Although the Turkish case of legal regulations on plagiarism includes many global approaches in terms of punishments such as dismissal from the profession, an administrative fine, or imprisonment, each country has a different legal environment. Therefore, similar studies can be carried out with various examples from different countries to better understand legal attitudes towards plagiarism in global academia. Country-comparative research can also be designed to identify how cultural differences influence the basis of the legal approach (e.g., informative, preventive, or punitive) against plagiarism in different countries. Furthermore, the analysis resulting from this study can be used to develop a survey or interview form in order to collect qualitative or quantitative data related to the opinions of the academic community on legal responses to acts of plagiarism.

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