

Faking It: The Fall-out from the Bogus Degree Epidemic

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The recent headlines about fake degrees have caused shockwaves in the region. In this article we look at the phenomenon from a regional perspective, the legal issues and the ramifications.

Diploma Mill

The phenomenon of fake diplomas production dates back to Middle Ages in France and Italy.

The concept is known as “diploma mill” or a “degree mill” and refers to a non-accredited company that declares itself as a higher educational institution and awards worthless degrees for a certain fee. In some cases, diploma mills may claim to give credits for “relevant life experience”, whereas in other cases the victims of the scam may have to pass online exams and write term papers thereby creating an impression of real education. To strengthen their position, diploma mills closely cooperate with accreditation mills, set up for the purpose of providing an appearance of authenticity.

In some cases the student knows he is buying a fake degree and in others the student is an unwitting victim of a scam.

Catch me if you can

In 2015 the *New York Times* published a report exposing a global scam developed by company in Pakistan which had sold thousands of diplomas of non-existing universities through a complex web of 370 websites including school sites, fake accreditation bodies, recruitment agencies, language schools and even a law firm. Apparently the firm was generating millions of dollars every month.

Among the more alarming revelations was that the company sold aeronautical degrees to airline employees, medical degrees to hospital workers, engineering degrees to site workers and law degrees to dropped out students.

According to the report, more than 3,000 people in the Middle East hold degrees from bogus universities from this company.

KSA

In Saudi Arabia the sectors that appear to be most affected by fake degrees are healthcare and construction. According to the Saudi Commission for Health Specialties 3,755 forgery cases involving health practitioners were revealed, with 57 physicians being arrested and prosecuted. The Saudi Council of Engineers detected 2,294 fake engineering certificates held by individuals applying to work in the Kingdom.

Qatar

When the scandal broke out, the government reacted immediately by introducing new regulations, according to which graduates of foreign universities were required to obtain a letter from their institutions confirming specific details about their courses before receiving approval for a residence permit. Moreover, the companies were prohibited to hire people who have studied for all or part of their degrees online.

Kuwait

The forged degrees scandal came only a few weeks after the government issued a new regulation requiring all engineers in Kuwait to be registered and certified by the Kuwait Engineering Society. Kuwaiti authorities decided to tackle the problem from several angles:

- Kuwaiti Ministry of Foreign Affairs offices abroad have been warned not to approve any university degrees without coordinating first with the Kuwaiti National Accreditation Bureau;
- the Health Minister has ordered the formation of a special committee to examine and validate university postgraduate degrees of Ministry of Health employees including both Kuwaiti and expat doctors, nurses, pharmacists, technicians and administrative staff members;
- the Ministry of Higher Education has started collaboration with the Ministry of Interior to scrutinize suspect certificates;
- parliamentarians have submitted draft legislation on how to combat this crime in a more effective way as well as proposals for legal action to be undertaken against wrongdoers (such as corrective measures against promotions or wage raises); and
- criminal cases are moving towards trial against accused violator and some have already been convicted. Moreover, five people suspected of holding fake university degrees have been jailed pending investigation and trial and 45 others are under investigation.

UAE

The government introduced a preventive measure for potential victims of this fraud by publishing a list of genuine universities which provide online education, whose degrees are recognised and will be accredited in the UAE. The list can be found on Ministry of Education website, so every resident

who wants to enroll for distance learning course can check his preferred university for authenticity.

It has been reported that expats found to be using fake degrees will face a life ban from working in the UAE.

Worldwide

The concept of fake degrees is a global phenomenon. In the last few weeks a US Republican party candidate has admitted to posing with a fake diploma. In United Kingdom, the police had to re-examine 700 cases that a falsely credentialed police criminologist had worked on. In Australia police had to investigate a sophisticated Chinese forgery business charging thousands of dollars for fake degrees and diplomas from nearly 100 of Australia's leading institutions.

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Criminal law considerations

The concept of issuing and using a fake degree constitutes a crime in every GCC jurisdiction. The type of crime and punishment, however, differs from country to country. In most cases the authorities rely on regulations related to fraud, forgery and misrepresentation when dealing with fake degrees.

By way of example the punishment in KSA for forgery and misrepresentation in different cases will vary from fines in the range of SAR 300,000-700,000 and imprisonment for the period from one to seven years, followed by (in respect of non-nationals) deportation and a life ban from entering KSA. Whereas in the UAE the convicted shall be sentenced to up to ten years of imprisonment.

In respect of government employees the sanctions are generally more severe.

The novelty of this phenomenon, the diversity of its variations and wide range of consequences means that the authorities are now looking at putting in place specific laws (or sections of laws) that deal with fake degrees (as opposed to fraud/forgery/misrepresentation generally).

The general principle in criminal law is that the accused must have had intent to commit a crime. Therefore those unwitting students who were victims of a scam may not face criminal sanction; obviously the court would consider whether a person in the accused's position, using reasonable

judgement, would have considered the university to be genuine.

Employment law considerations

Background checks

From a risk management point of view an employer should carry out background checks prior to commencement of employment in order to establish the candidate's academic credentials. This is not as easy as it might sound; in many cases employers outsource this task to a specialist company. Some employers would do this as part of a wider background check in relation to criminal records etc. It goes without saying that where the employer is an educational institution itself then this is an area of huge potential risk and deserves the commensurate focus.

It is also possible to check the authenticity of credentials by contacting the Commission for Academic Accreditation and/or Ministry of Education.

As regards existing employees, the employer may consider background checking employees in sensitive positions to ensure they hold the necessary accreditation.

The *New York Times* has published a list of bogus universities and it is not difficult to search for 'graduates' of such universities via social media, so an employer could quickly establish if any of its existing employees fall into this category.

Vicarious liability

Employers are in a high risk group when it comes to damages indirectly caused by fake degrees. The concept of vicarious liability is one that can make an employer liable for the actions of an employee carried out in the course of their employment.

Termination

Offers of employment are generally conditional upon verification of academic references, failing which the offer is withdrawn. Where the employee is already in the job for some time and it becomes apparent that his degree is fake then the employer could terminate him for gross misconduct. In all the GCC countries there is a provision in the labour law to this effect. That termination would be without notice and without end of service gratuity.

The employee would be entitled to due process; i.e. he would be entitled to state his defence to the allegation. He may be able to prove that he was an innocent victim in which case the employer would have to decide the appropriate action to take. In some cases it will be irrelevant whether the employee was an unwitting victim or not; i.e. his position absolutely requires him to hold a degree/diploma- e.g. doctor, nurse, engineer etc. In other cases the degree may have been preferable but not mandatory – e.g. sales manager – in which case the employer may decide to retain him as he has performed the job well over the years.

In all gross misconduct terminations legal advice should be sought as there may be other factors to consider (was the degree the primary documentation relied on by the employer? Did the employer become informally aware of the fake degree previously? etc).

Conclusion

The fake degree story has just begun and it has a long way to go before its full effects are felt. Employers and regulators are on red alert and need to remain vigilant. Background checking of employees in sensitive positions who are required to hold academic qualifications is an absolute must and failure to do so could lead to the employer being vicariously liable for damage done by that employee as well as obvious reputational harm to the company.

Al Tamimi & Company's [Education team](#) supports education providers on all legal aspects of their operations. For further information please contact [Ivor McGettigan](#) (i.mcgettigan@tamimi.com).