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The Legal Responsibility of Private Higher Education Institutions for Educational Quality: An Iraqi Case Study in Comparative Perspective

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ABSTRACT

Objective: *This article analyzes the role of private higher education institutions in assuring educational quality, in the context of Iraq as the main legal context and in relation to international quality assurance frameworks. It sets aside the duties of institutions to offer an approved and properly delivered programme from an alleged duty to ensure the competence or employment of each student.* ***Method:*** *The research explores the relationship between students and institutions, administrative control, accreditation, civil liability, evidence of harm and causation by using doctrinal and comparative analysis.* ***Results:*** *The article asserts that the quality of education need not be a blanket right to an employment opportunity or to a specific career, yet it can be of legal value nonetheless. An institution can be held responsible for specific shortcomings, such as misrepresenting material, failing to provide promised facilities or instruction, or failing to meet conditions of licensing or accreditation. A civil claim does, however, need to establish a duty which is legally relevant, a breach of that duty, harm and then a sufficiently clear connection between the harm and the breach of duty in accordance with the relevant law.* ***Novelty:*** *The study suggests a tiered (layered) approach to accountability, consisting of providing accurate information at the time of enrolment, internal quality assurance, external review, proportionate regulatory action, access to students' complaints, and remedies for proven individual harm. This will help to safeguard the students and maintain the separation between the educational standards and outcomes which are affected by the broader labour market.*

INTRODUCTION

Private higher education institutions have an important public role to play. They offer learning opportunities, deliver qualifications in a regulated system and train young people for the next stage of their education and adulthood.[1] Their activities also establish legal relationships with students and carry on with the rules of programmes, staffing, facilities, assessment and institutional oversight [2].

Increased access needs to be carefully accompanied by an account of institutional responsibility [3], [4]. The decision of which programme to select following a comparison to its advertised accreditation, clinical training or practical training, resources and employment prospects is a student's choice [5], [6]. Issues, if statements made in the materials are inaccurate or significant portions of the educational service are not provided, are not limited to dissatisfaction with the school. It can be a failure to comply with the regulations, a failure to comply with an enforceable undertaking, misleading information or any other legally recognised wrong [7], [8].

The other argument would also be fallacious: a school does not have the power to influence all the factors that influence a student's performance in his studies, in his job,

or in his life as a whole [9]. Students' participation and assessment performance are partly determinants of learning. Employment is determined by the economy, one's choices, professional licensure, competition and employers' choices [10]. A legal analysis is necessary in order to be able to say what duty it is that has been supposedly violated and, as a result, what was not done as expected [11], [12].

The original study poses this distinction by asking whether it has a duty of care or it has a duty to achieve a result. This article proposes a more specific response: the content of different institutional promises and legal obligations can be different. Giving an approved programme, the teaching that is specified, a fair assessment and employment are independent propositions. They are not to be considered a single undivided duty [13].

The context of Iraq is useful because there is a particular statute and supervisory regime for the private sector in the HE arena. International quality-assurance standards can be used to assess institutional processes, but they should be considered in parallel with the validity of Iraqi laws and decisions issued by the regulator [14], [15].

Research Problem and Questions

The central question is how the law can hold a private higher education institution responsible for inadequate education without requiring it to guarantee that every graduate will be a "learner" or a "licensee" or even a "jobber [16], [17].

The main research question is: When is a private higher education institution legally accountable for the quality of those educational inputs and what is the difference between a poor educational outcome and a poor outcome in terms of the graduates?

The analysis aims to answer four related questions. What are the obligations stemming from the regulatory regime, the institutional's published statements and from the relationship between the institution and students? Secondly, how does accreditation and external quality review contribute to the setting and implementation of those duties? Thirdly, what is the best way to measure breach, injury and causation in a specific claim? Fourth, what are the ways in which information sharing, complaints and proportionate regulation can enhance accountability in the absence of harm?

RESEARCH METHOD

The approach to this study is doctrinal legal analysis that attempts to differentiate regulatory obligations from potential civil claims by individuals [18]. The main jurisdiction is Iraq. Comparative quality-assurance materials are employed to look at how programme aims can be defined and how the learning outcomes can be measured, how provision can be reviewed and how it can be considered when informing students [19], [20].

The benchmarks are not always applicable Iraqi law. Specifically, the quality assurance systems and accreditation requirements of the higher education sector in Europe could be helpful models (but do not create civil liability against an Iraqi college). Such liability shall be based on the relevant facts of the case, the relevant representations or undertakings given or made by the institution under Iraqi law and the law of the land

of the Mediator or the final court of the state where the agreement is made or executed [21], [22].

There are no fieldwork, graduate employment, interview data, or analysis of samples of Iraqi court cases in the study. Its conclusions focus on the legal framework of accountabilities and recommendations for strengthening this framework. They cannot be interpreted as a fact that a certain percentage of private colleges fail to educate adequately [23], [24].

Defining Educational Quality for Legal Purposes

The term educational quality is a general term. It can relate to input (qualified staff, suitable facilities, suitable learning resources); process (teaching, supervision, assessment, and student support); and outcome (demonstrated learning, and progression of graduates). Each dimension might be relevant but each is related to legal responsibility in a different way [25], [26].

An institution can have immediate input into staffing arrangements, delivering the curriculum, the facilities provided, the assessment process, the accuracy of information published, and the subsequent job opportunities for each graduate, compared to the subsequent jobs itself. This distinction in control shall be taken into account in legal rules. While it might be easier to prove that a degree was not profitable, it may be easier to prove that a required lab, clinical placement or offered course was not being offered [27].

Use of learning outcomes can help in this inquiry if they are clearly defined and well evaluated. They define the knowledge and skills that a programme hopes its students will be able to exhibit. They are not required to be achieved for all students enrolled in the school, regardless of attendance, effort, academic attainment or lawful assessment decisions [28].

Limited but useful role of employment data too. Graduate destinations can support institutions and regulators to review the relevance of programmes and whether students are getting accurate information. If they have a low employment rate, there may be a need to look at curriculum and training or promotion having been misleading. It does not, on its own, prove that the institution misdulied any of its former students who are unemployed [29].

Therefore, a legal definition of quality in education should focus on observable conduct and compliance in an institution. This encompasses if the programme was authorized, if there were material promises made, if required resources and teaching was provided, if assessment rules were followed, and if any identified deficiencies were addressed [30].

The Iraqi Regulatory Setting

The private higher education is based on a statutory and ministerial system in Iraq. The Private Higher Education Law No. 25 of 2016 is a key piece of legislation for the analysis of the establishment, operation and supervision of private universities and colleges [31]. A publication of an assessment of a particular statutory duty should not

only make reference to the duty itself, but also to the implementing instructions, not only a general reference to the duty of providing "quality." en.uobaghdad.edu.iq

Regulatory role is not just a theoretical. In March 2026, the Ministry of Higher Education and Scientific Research in Iraq ordered private universities and colleges to fill out the requirements for accreditation of the programmes[32]. It said compliance committees would make recommendations for denying admission to departments that failed to meet those requirements, under Article 38(Second) of Law No. 25 of 2016. This is to show the difference between institutional regulation and a student's potential rights to compensation. mohesr.gov.iq

A regulator can take action to safeguard current and future students even if there is no specific claim for personal damages made by a student. However, having a regulatory violation does not necessarily mean there will be civil penalties or that they will be available. Both processes may use similar evidence, but ask different questions, have different procedures and/or consequences [33].

Licensing, programme accreditation, inspection and admission controls are therefore considered as a public accountability system in this article. The civil effects of a specific deficiency would be assessed in relation to the specific legal basis and the alleged harm suffered by the student, separately [34].

The Legal Relationship between the Student and the Institution

There are more than one legal aspects of student-institution relationship. Specific undertakings may relate to providing an educational service and form part of enrolment and payment. Concurrently, the institution is a regulated higher education institution, and must meet requirements that are not supplanted by agreement with a student [35].

The material covered in the relationship should be established based on relevant legislation and instructions, as well as admission documentation, published programme information, institutional rules and specific representations made to the student. The significance of each document could vary. A general promotional objective, such as 'develop "future leaders"', does not necessarily mean a specific assurance that a programme is approved and/or has the requisite amount of practical training [36].

This distinction prevents giving a too inclusive definition of the "mixed" relationship that would not point to an actionable obligation. A claimant must identify the duty that the institution was legally obliged to fulfill, its source and how it failed to comply [37].

Institutions should provide essential information which is accessible prior to enrolment. This will include the nature of the institution and programme, the degree to be awarded, programme structure, fees, material practical-training arrangements, assessment rules and any conditions which will impact on progression or professional practice. This transparency can avoid future conflicts and serve as proof should they occur [38].

Duties Concerning Provision and Duties Concerning Outcomes

A distinction between "obligation of means" and "obligation of result" can be misleading when trying to grasp the diversity of responsibilities in higher education. Depending on the obligation, the appropriate characterisation will be utilized [39].

Institutions may, for instance, be obliged to offer a teaching, a facility, or the assessment process referred to in the binding rules or clear undertakings. A review of those duties can be made using timetables, records, staff appointments, facility inspections and student assessments. They may have much more control over their own performance at the institution [40].

In contrast, making a promise that all of the students will learn a skill or get a job would be a promise that would need to be contingent on something that is outside of the control of the institution. Such an occurrence should not be construed to be part of the institution's obligation unless there is a specific legally binding commitment made[41].

The institution can, however, be obligated to have a valid mechanism to determine if students have met/reached the learning outcomes. It should not be able to award a qualification based on assessments which ignore relevant academic requirements. That means a lack of job security does not relieve a teacher of the duty to provide good instruction, wrong promotion or lack of proper standards [42].

The proposed distinction is on the level of duty: ascertain the origin and substance of each duty and then consider the degree of institutional control and of evidence of achievement. This gives more grounds for liability analysis than a single guaranteed outcome of "educational outcomes" [43].

Accreditation and External Quality Assurance

Accreditation is a systematic way of reviewing if an institution or programme meets defined requirements. May need evidence related to curriculum, staffing, resources, assessment, student outcomes, and continuous improvement. The exact legal implications are dependant upon the specific national legislation applicable and the power of the accrediting institution [44].

Examples from other countries can help to illuminate this process. The European Higher Education Area Standards and Guidelines for Quality Assurance (SG-EHEA) offer a model for both internal and external quality assurance and are heavily based on student-centred learning. They are NOT a substitute for identification of an Iraqi legal requirement, but are a comparative reference [45].

Standards for programmes are another example. The engineering criteria of ABET focus upon outcomes in the documentation of the student and preparation of the graduate for engineering practice. These criteria illustrate how a field can be related to programme design, assessment and improvement. They should not be equated to a standard for all disciplines, nor with a guarantee that every engineering graduate will end up with a job. 2027

Accreditation evidence may be important for legal reasons in several ways. It can indicate what criteria were met, what the institution was, what were the shortcomings, and if it acted on them. Admission materials should be descriptive and accurate when

using the terms accredited or not. It should be noted, however, that the accreditation does not go as far as to confirm the quality of all teaching activities nor to establish that no student had suffered a legally relevant wrong at any time [46].

Administrative and Regulatory Responsibility

Administrative oversight relates to compliance of the institution and protection of the education system. Regulatory action can take the form of instructions to remedy deficiencies, increased surveillance, admission restrictions and other actions permitted under the relevant legislation. The powers and procedures available in that law and law alone are to be used by the regulator [47].

There needs to be a clear distinction between minor weaknesses that are easily remedied and deficiencies that are likely to adversely affect attainment of a coherent programme in the course of study. It should also include existing pupils. While this may safeguard prospective applicants, it is also essential for regulators and institutions to think about how current students will be taught and how they will be able to finish their studies [48].

If quality-assurance information is reliable and specific, it can help to provide the basis for proportionate action. A programme level finding related to inadequate facilities is more useful than an unexplainable ranking. Periodic review should be recorded, therefore, in terms of standards, evidence, findings, improvements to be made and follow-up [49].

The implementation of administrative measures should not be offered as a compensation for the student. They can develop important facts, but any single remedy would need to be taken on a case-by-case basis under the legal procedure applicable to that claim.

Civil Liability: Duty and Breach

The duty of the institution towards the claimant must have a legal basis for civil liability. The alleged wrong may be the failure to carry out an enforceable undertaking, the provision of misleading information or some other recognised basis of liability depending on the rules applied and the facts. The study shouldn't presume that every time a child fails a course damages are incurred [50].

Examples that might be significant include advertising a programme as approved when it is not; failing to provide a significant amount of supervised practice or teaching that has been specifically required or promised; materially misrepresenting the status of a qualification; or ignoring an applicable requirement in a way that has an impact on the student. It is still necessary for each of the examples to show the facts and the legal conditions [51].

There needs to be an established benchmark to measure the breach. It is challenging to assess general discontent with the quality of education, unless the complainant can relate the complaint to a particular duty, omission, representation or regulatory requirement. This may be supported by documentary evidence, institutional

records, published programme specifications, inspection findings and expert evidence [52].

The legal evaluation shall also not make courts into a substitute for the academic examiners. Academic judgment can be a form of evidence but a complaint regarding a grade does not necessarily constitute an allegation that the institution was not delivering the programme that the institution was required to deliver.

Harm and Causation

The existence of a breach does not of itself establish a compensable claim. The claimant must identify legally recognized harm and connect it to the institution's conduct according to the relevant rules of proof and causation [53].

Some losses can be pretty straightforward. A student who paid for a program that was materially misrepresented as having an approval necessary for the program may assert a different type of harm than a graduate who asserts that poor teaching caused unemployment years later. The latter claim also raises further questions about the labor market, the graduate's performance and choices, other qualifications, and employers' decisions [54].

Graduate unemployment, therefore, is an inadequate single measure of causation. Aggregate employment numbers are useful for program evaluation, but they cannot tell you why a particular applicant did not get a job. The original manuscript's proposal of "flexible causation" should not be presented as an established legal solution without identifying a jurisdiction, authority, and conditions for its use [55].

A stronger evidentiary approach starts with the specific alleged deficiency and its foreseeable consequences. It then asks whether there is reliable evidence linking that deficiency to an identifiable loss. While that link is speculative, an award of damages not supported by a regulatory correction or student complaint process may be less appropriate [56].

The scope and limits of employability measures

Institutions should review whether their curricula and practical training are still adequate for professional and social needs. That review can be informed by employer feedback, alumni surveys, graduate progression, professional examinations and student assessment.

There is no single indicator of educational quality. Employment rates vary with economic conditions, regional opportunities, the discipline studied, further education and time since graduation. They may also conceal unequal access to work or employment not associated with the qualification.

It can therefore lead to unfair or misleading results to link the legal validity of a program directly to one employment percentage. If regulators do use graduate destinations, they should explain how data are collected, the period they measure, differences between disciplines and the role of other indicators. Employment should be a reasoned evaluation, not a legal verdict [57].

This is not to deny that employment claims in institutional advertising are not important. A numerical claim or guaranty should be adequately qualified and supportable. An institution that publishes misleading graduate-outcome data creates a different legal issue than one whose graduates are struggling in the labor market despite having obtained the education that was promised.

Student Protection and Institutional Governance

The best accountability is to catch and correct problems before students are seriously injured. Institutions should have accurate information regarding programs, a record of curriculum delivery, documented assessment procedures, accessible complaint channels and processes for responding to findings from external reviews. Students should understand how to make a complaint and how decisions are reviewed. The complaints mechanism should distinguish academic appeals, service delivery and allegations of misleading information and reports of regulatory non-compliance. Different decision makers or remedies may be needed for different categories. Roles should also be defined in institutional governance. All academic departments, all college leadership, all governing bodies and all quality-assurance units can be players. Allocations ambiguities could delay correction. "An internal review should result in real improvement, not just paper work," he said. Transparency is key, especially around changes in accreditation or approval status. Prospective and enrolled students should receive accurate and timely information about any changes that may materially affect their program. The answer is ongoing education and future hiring [58].

RESULTS AND DISCUSSION

Results

All these approaches to quality-assurance and examples of programme-specific accreditation in Iraq address similar issues from different perspectives. Iraqi law and permissible regulatory action define domestic obligations. Comparative standards can illustrate what effective internal review, student information and outcome assessment may look like. Nor is one to be confused with the other [59]. The European quality-assurance framework emphasises both structured internal and external review. ABET offers an example of defined programme outcomes and their assessment in a specific professional field. A practical domestic mechanism through which compliance may impact on admission is Iraq's 2026 ministerial direction on programme accreditation. The lesson is that quality must be demonstrated by institutional practices, not proclaimed by general promotional language. There remains a fundamental legal distinction between assessing a programme and establishing an individual claim. A regulator may take action on a deficiency recorded in writing by an institution. A court considering damages must also consider the claimant's duty, harm and causation.The distinction thus provides for a higher level of protection, without creating an impossible obligation to control the whole labour market. It also encourages institutions to deliver accurate information and keep reliable records of what they actually deliver [60].

Discussion

The findings of this study highlight the importance of distinguishing between the legal responsibility of private higher education institutions for educational quality and their responsibility for graduates' employment outcomes. Within the Iraqi legal framework, institutional accountability should be assessed based on compliance with statutory obligations, accreditation requirements, and specific commitments made to students. Private universities and colleges are responsible for providing approved academic programmes, qualified teaching staff, adequate learning facilities, appropriate practical training, and transparent assessment procedures. However, these responsibilities should not be interpreted as an unconditional guarantee of academic achievement or future employment. Educational outcomes are influenced not only by institutional performance but also by students' individual abilities, academic engagement, professional qualifications, and broader labour market conditions. Consequently, the legal assessment of educational quality requires a clear distinction between deficiencies directly attributable to institutional conduct and outcomes resulting from external circumstances. This distinction provides a more balanced foundation for protecting students' rights while maintaining reasonable limits on institutional liability.

The analysis further demonstrates that accreditation and quality assurance mechanisms play a significant role in establishing institutional accountability. In Iraq, Private Higher Education Law No. 25 of 2016 provides an important regulatory foundation for supervising private universities and colleges. Accreditation requirements, institutional inspections, and administrative oversight can help identify deficiencies in curriculum implementation, academic staffing, learning resources, and educational services. Comparative international frameworks, particularly the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG), illustrate the importance of systematic internal evaluation, external assessment, and continuous institutional improvement. Nevertheless, international accreditation principles should be treated as comparative benchmarks rather than directly enforceable legal obligations within Iraq. Regulatory violations may justify administrative measures, including corrective instructions or restrictions on student admissions, without automatically establishing an individual right to financial compensation. Therefore, effective quality assurance requires coordination between institutional governance, regulatory supervision, and legally established mechanisms for addressing educational deficiencies.

From the perspective of civil liability, the findings indicate that students seeking legal remedies must demonstrate the existence of a legally recognized duty, a breach of that duty, identifiable harm, and a sufficiently established causal relationship between the institutional failure and the alleged damage. Misrepresentation of accreditation status, failure to provide promised practical training, inadequate educational facilities, or noncompliance with binding programme requirements may constitute relevant grounds for legal accountability when the applicable legal conditions are satisfied. However,

graduate unemployment alone cannot establish institutional negligence or educational malpractice because employment opportunities depend on multiple economic, professional, and individual factors. Graduate employment statistics may provide useful indicators for evaluating programme relevance and institutional effectiveness, but they cannot independently demonstrate causation in an individual civil claim. Documentary evidence, institutional records, programme specifications, accreditation findings, and expert assessments are therefore essential for evaluating allegations of educational deficiencies. This evidentiary approach supports more consistent legal reasoning and reduces the risk of attributing adverse employment outcomes exclusively to educational institutions.

Furthermore, the study emphasizes the importance of preventive accountability through transparent institutional practices and accessible student protection mechanisms. Private higher education institutions should provide prospective students with accurate information concerning programme accreditation, academic requirements, tuition fees, learning facilities, practical training opportunities, and qualification recognition. Internal quality assurance systems should regularly monitor programme delivery, teaching effectiveness, assessment procedures, and compliance with regulatory standards. External evaluations should complement these mechanisms by identifying institutional weaknesses and recommending proportionate corrective actions. Students should also have access to transparent complaint procedures and academic appeals that allow concerns regarding educational services to be investigated fairly. Where institutional misconduct results in legally recognized harm, appropriate remedies should remain available under the applicable legal framework. The proposed layered accountability model therefore integrates preventive quality assurance, administrative supervision, and individual legal remedies while preserving the distinction between educational obligations and employment outcomes.

Overall, the discussion suggests that educational quality should be understood as a legally relevant institutional responsibility rather than an absolute promise of graduate success. The comparative analysis demonstrates that effective accountability depends on clearly defined institutional duties, reliable evidence of compliance, appropriate regulatory intervention, and accessible remedies for proven harm. For Iraq, strengthening these mechanisms may improve transparency, protect students, and reinforce public confidence in private higher education institutions. At the same time, maintaining a distinction between educational service delivery and employment outcomes prevents the expansion of civil liability beyond obligations that institutions can reasonably control. This approach supports a balanced legal framework in which institutional accountability is grounded in enforceable duties, documented deficiencies, and established principles of harm and causation. It also encourages private universities to prioritize continuous educational improvement rather than relying solely on graduate employment indicators as measures of academic quality.

CONCLUSION

Fundamental Finding: Private higher education institutions can be held legally responsible for the quality of their provision and delivery. The responsibility is most clearly articulated through the provision of accurate information, the use of approved programmes, the provision of required teaching and training, the fair assessment of teaching and training, compliance with regulatory standards and correction of identified deficiencies. Educational provision should not be mistaken for a universal guaranty of graduate employment. Education influences individual employability, but so do student performance, professional requirements, employer choices, and broader economic conditions. Therefore, a civil claim is only possible if a specific legal obligation can be identified, which is then breached, causing legally recognised damage with a sufficiently established causal link. **Implication:** For Iraq, a workable approach combines the existing statutory and ministerial framework with transparent institutional information, meaningful programme review, proportionate oversight and accessible student remedies. This approach safeguards students and the credibility of qualifications while keeping legal responsibility tied to evidence and duties the institution can actually do. First, the information on the programme given before enrolment should accurately state the approval and accreditation status. Third, quality assurance should use multiple indicators. Fourth, institutions should provide easy access to complaints and academic-appeal procedures. **Limitation:** Third, the accreditation findings can form the basis of regulatory action and can be used as evidence in a dispute, but are not determinative of an individual claim for compensation. Fourth, employment data can be a source of information for quality review, but cannot be the sole basis for breach or causation. The latter requires further evidence and cannot be inferred from unemployment alone. **Future Research:** International standards can inform this work, if we know how their comparative role can be elucidated. Finally, any legislative reform in respect of civil remedies should preserve the distinction between proven failure to provide an educational service and an adverse outcome which the institution did not guaranty.

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