



ACADEMICIANS AND ACADEMIC MISCONDUCT

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ACADEMIC FREEDOM

- DO WE HAVE SUCH A FREEDOM?
- IF WE DO; WHAT, WHEN AND HOW?
- WHAT IS THE EXTENT OF THE FREEDOM
- WHEN CAN WE EXERCISE?
- HOW ARE WE PROTECTED?

THE LAWS

- FEDERAL CONSTITUTION
- UNIVERSITI TEKNOLOGI MARA ACT 1976 [ACT 173]
- STATUTORY BODIES (DISCIPLINE AND SURCHARGE) ACT 2000 [ACT 605]
- COMMUNICATION AND MULTIMEDIA ACT 1998 [ACT 588]
- PENAL CODE [ACT 574]

Academic freedom is the principle of freedom of expression for scholars engaged in discipline-related teaching, learning, research, publication and service.

Academic freedom is the foundation of intellectual discovery; it ensures an open search for knowledge and “nourishes the environment within which students develop critical habits of mind” essential to the citizenry of a democratic society.

Academic freedom entails both rights and responsibilities.

Academic dishonesty in higher education is a growing problem (Edgren & Walters [2006](#); Magnus et al. [2002](#); Trost [2009](#))

<https://doi.org/10.1007/s40979-015-0006-2>

- ✓ Academic work involves speech and expression
- ✓ Generally speaking, it is protected under Article 10 of the Federal Constitution

Freedom of speech, assembly and association

10. (1) Subject to Clauses (2), (3) and (4)—

(a) every citizen has the right to freedom of speech and expression;

(b) all citizens have the right to assemble peaceably and without arms;

(c) all citizens have the right to form associations.

(2) Parliament may by law impose—

(a) on the rights conferred by paragraph *(a)* of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence;


A professor at a public French university, or a researcher in a public research laboratory, is expected, as are all civil servants, to behave in a neutral manner and to not favor any particular political or religious point of view during the course of his duties. However, the academic freedom of university professors is a fundamental principle recognized by the laws of the Republic, as defined by the Constitutional Council; furthermore, statute law declares about higher education that teachers-researchers [university professors and assistant professors], researchers and teachers are fully independent and enjoy full freedom of speech in the course of their research and teaching activities, provided they respect, following university traditions and the dispositions of this code, principles of tolerance and objectivity (Education Code, L952-2).

https://senate.ucsc.edu/committees/caf-committee-on-academic-freedom/FAQ_CAF_124.pdf

Academic *misconduct* and *dishonesty* threaten the integrity of the learning process and could potentially undermine the credibility of educational programs



Why there is no academic freedom in Malaysia

Posted about [6 years ago](#) | Comments Off on Why there is no academic freedom in Malaysia 

By Murray Hunter.



academic freedom in pseudo research, where for example, the issue with academic freedom with academic responsibility would be linked, making an underlying assumption that academics cannot be trusted to be academically responsible.

This is probably best epitomized by a comment made by a Malaysian academic "Alang Ahmad" on the Scholars and Researchers for Academic Freedom in Malaysia (SARAF) on Facebook, where he said....

"Sorry, we UiTM lecturers owe our livelihood to the BN Govt. Besides unity of Malays has greater importance than the silly wishes of some juveniles" Nov. 25 2011.

Some academics have followed their 'superiors' agenda by creating research that supports government ideas and points of view like *Ketuanan Melayu*. Such a case was where the academic from Universiti Kebangsaan Malaysia (USM) used an extended concept of 'Nam Tien', a term used to refer to the migration from the Red river delta to the Mekong Delta during the 11th and 18th Century to argue that the Malay race has for thousands of years been a target of invasion, due to envy by other races.

Even more disturbing is the reluctance of university academics to speak out against their superiors, leaving the door open for university management to mismanage and flaunt the system financially. The author was told by a state director of the Malaysian Anti-Corruption Commission (MACC) that he has tried for years to get university staff to report their superiors for corruption, but been unable to get anybody to stand forward and make a formal report.

Dr. Ibrahim Ahmad, the deputy vice chancellor of INTI-Laureate International University claims that the Malays are 'cultural prisoners' and are not courageous in speaking out due to the norms of society. He goes on to say that this

Black's Law dictionary defines 'Misconduct' as;

“A **transgression** of some established and definite rule of action, a **forbidden** act, a **dereliction** from duty, **unlawful** behaviour, wilful in character, **improper** or **wrong** behaviour”



Plaat Ruber Sdn Bhd v Goh Chok Guan, the Industrial Court stated:

‘Misconduct means such act or conduct as adversely affects employees’ duties towards the employer. The misconduct complained of must have the same relations with the employees’ duties or the work entrusted to him by the employer or his competency to perform the same. Any breach of an express or implied duty on the part of the employee, unless it is a trifling nature, would amount to misconduct’.



Holiday Inn, Kuching, Sarawak v Puan Elizabeth Lee Chai Siok,

misconduct was defined as any conduct inconsistent with the faithful discharge of his duties or any breach of the express or implied duties of an employee towards his employer.

Syarikat Kenderaan Melayu Kelantan Sdn Bhd v Transport Workers Union,

misconduct was defined as 'conduct so seriously in breach of the accepted practice that by standard of fairness and justice the employer should not be bound to continue the employment'.

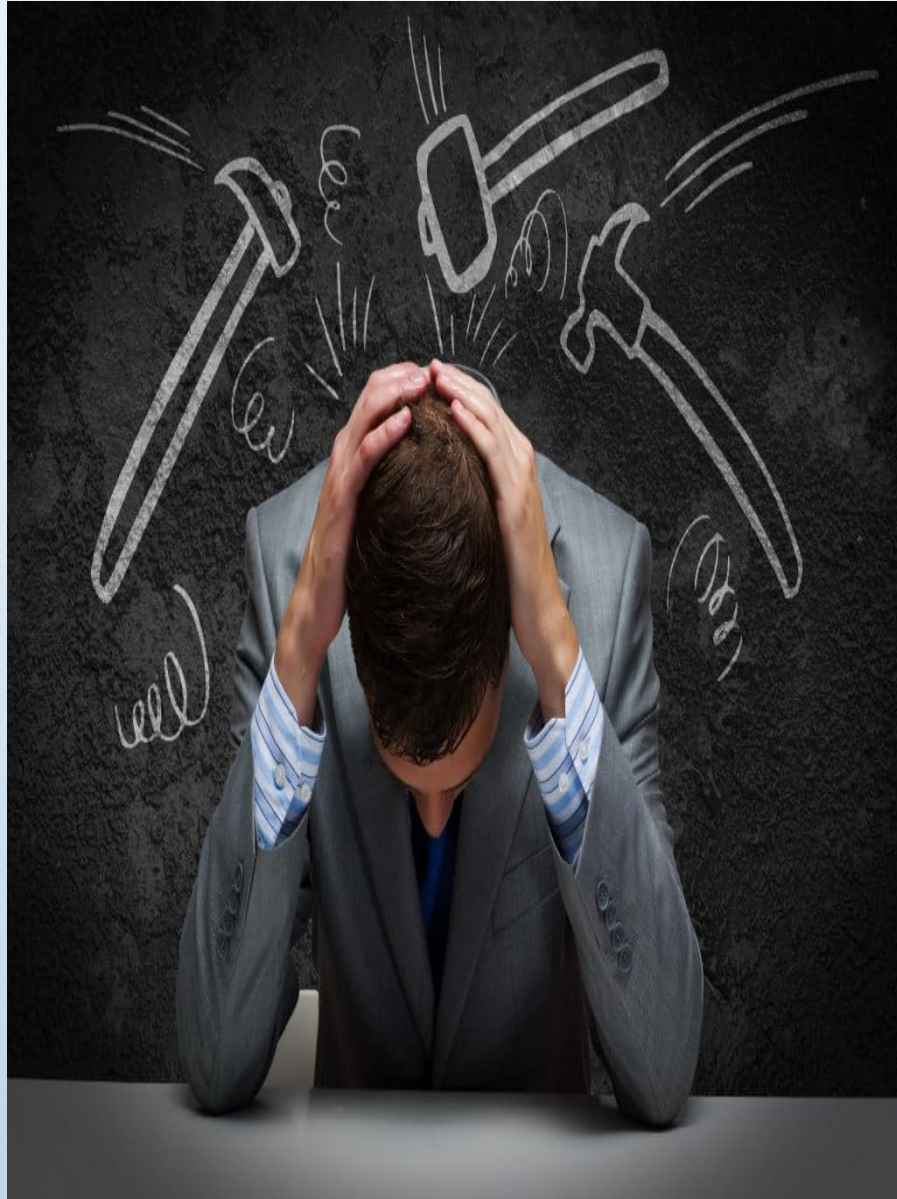


Misconduct relating to duty;

- ✓ non-observance of duty
- ✓ non-performance of work
- ✓ negligence of duty
- ✓ absence without leave
- ✓ acts subversive to discipline
- ✓ insubordination
- ✓ disobedience
- ✓ riotous and disorderly behavior



Misconduct also encompasses acts like theft, dishonesty and fraud, disloyalty, moral turpitude, corruption et al.



PART II

CODE OF CONDUCT

General

3. (1) An officer shall at all times give his undivided loyalty to the Yang di-Pertuan Agong, the country, the Government and the statutory body.

(2) An officer shall not—

- (a) subordinate his duty to the statutory body to his private interests;
- (b) conduct himself in such a manner as is likely to bring his private interests into conflict with his duty to the statutory body;

- (c) conduct himself in any manner likely to cause a reasonable suspicion that—
 - (i) he has allowed his private interests to come into conflict with his duty to the statutory body so as to impair his usefulness as an officer of the statutory body; or
 - (ii) he has used his position as an officer of the statutory body for his personal advantage;
- (d) conduct himself in such a manner as to bring the statutory body into disrepute or to bring discredit to the statutory body;
- (e) lack efficiency or industry;
- (f) be dishonest or untrustworthy;
- (g) be irresponsible;
- (h) bring or attempt to bring any form of outside influence or pressure to support or advance any claim relating to or against the statutory body, whether the claim is his own claim or that of any other officer of the statutory body;
- (i) be insubordinate or conduct himself in any manner which can be reasonably construed as being insubordinate; and
- (j) be negligent in performing his duties.

Outside employment

Outside employment

4. (1) Unless and to the extent that he is required or authorized to do so in the course of his duties as an officer of a statutory body, an officer shall not—

- (a) take part, either directly or indirectly, in the management or dealings of any commercial, agricultural or industrial undertaking;
- (b) undertake for reward any work with any institution, company, firm or private individual;
- (c) as an expert, furnish any report or give any evidence, whether gratuitously or for reward.

(2) Notwithstanding subregulation (1), an officer may, with the prior written permission of his Head of Department, carry on any of the activities or perform any of the services specified in that subregulation, either for his benefit or for the benefit of his close relatives or any non-profit-making body of which he is an office-bearer.

(3) In considering whether or not permission should be granted to any officer under subregulation (2), the Head of Department shall have regard to the code of conduct as laid down in regulation 3 and shall ensure that the activity or service—

- (a) does not take place during office hours and during such time when the officer is required to perform his official duties;

Permint Plywood Sdn Bhd, Kuala Terengganu v Kesatuan Pekerja-Pekerja Perkayuan Semenanjung Malaysia, The Industrial Court lamented that,

“Whether sexual immorality by an employee in his private life is industrial misconduct depends on whether it will tarnish the employer's reputation or detract from his goodwill. In some positions, all sexual immorality is likely to hurt the employer, such as that of a priest. A married university professor who seduces one of his female students, or a school principal who seduces a native girl, as a result of which she bears an illegitimate child is guilty of misconduct.”



Fauzilah Salleh v Universiti Malaysia Terengganu [2012] 4 CLJ 601.

In this case, the plaintiff Master's Degree which was awarded by the defendant in 2006 has later be revoked in 2008 on the ground that she had committed plagiarism. The plaintiff filed the suit claiming that the revocation of her Master's Degree was in violation of clause 57 of the defendant's Constitution and the principle of natural justice and therefore asked for a declaration that the revocation was invalid and an order for the return of the degree to her. The court in its judgment allowing the plaintiff's claim while found that she has committed plagiarism, among other things, observed that the failure of supervisor to properly supervise the research, in particular the writing process of student's thesis, has partly contributed to the commission of plagiarism. The court also stressed on the duty of the university to issue students writing their thesis with a proper set of writing guideline



GEORGE TOWN, March 8 — A 51-year-old former Universiti Sains Malaysia (USM) lecturer was charged at the Magistrates' Court today with cheating and using a forged document to apply for a position in the university.

N. Thevananthan was first charged with cheating USM on August 15, 2008 by using false documents to be appointed as a lecturer there with his salary during the entire employment period totalling RM195,081.38.

The cheating offence, under Section 420 of the Penal Code, carries a jail sentence of between one to 10 years with whipping and fine.

Thevananthan was also charged with using forged documents as genuine documents when applying for the lecturer position in USM on August 15, 2008.

STATE OF HAWAII
CERTIFICATE OF LIVE BIRTH
DEPARTMENT OF HEALTH
FILE NUMBER 151
61 10641

1a. Child's First Name (Type or print)		1b. Middle Name		1c. Last Name	
BARACK		HUSSEIN		OBAMA	
2. Sex	3. This Birth	4. If Twin or Triplet, Was Child Born	5a. Month	5b. Year	5c. Day
Male	Single <input checked="" type="checkbox"/> Twin <input type="checkbox"/> Triplet <input type="checkbox"/>	1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd <input type="checkbox"/>	August	1961	24
6a. Place of Birth: City, Town or Rural Location					
Honolulu					
6b. Name of Hospital or Institution (If not in hospital or institution, give street address)					
Kapiolani Maternity & Gynecological Hospital					
7a. Usual Residence of Mother: City, Town or Rural Location					
Honolulu					
7b. Island					
Oahu					
7c. Country and State or Foreign Country					
Honolulu, Hawaii					
7d. Street Address					
6085 Kalanian'ole Highway					
7e. Is Residence on a Farm or Plantation?					
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>					
8. Full Name of Father					
BARACK OBAMA					
9. Race of Father					
African					
10. Age of Father					
25					
11. Birth Date of Father					
12. Usual Occupation					
Student					
13. Kind of Business or Industry					
University					
14. Full Maiden Name of Mother					
STANLEY DUNHAM					
15. Race of Mother					
Caucasian					
16. Type of Occupation Outside Home During Pregnancy					
None					
17. Date Last Worked					
18a. Signature of Parent or Other Informant					
Stanley Dunham Obama					
18b. Date of Signature					
8-7-61					
19a. Signature of Attendant					
David A. Dunham					
19b. Date of Signature					
8-8-61					
20. Date Accepted by Local Reg.					
AUG - 8 1961					
21. Signature of Local Registrar					
V. L. L.					
22. Date Accepted by Reg. General					
AUG - 8 1961					

MACC arrests senior lecturer for alleged abuse of position

By MAZWIN NIK ANIS



NATION

Wednesday, 15 Sep 2021

11:40 AM MYT

PUTRAJAYA: A senior lecturer has been arrested for allegedly abusing her position by awarding a contract worth RM46,000 to her sister and brother-in-law.

The woman is in her 40s, holds a "Doctor" title and is attached to a public university.

She was arrested at the Malaysian Anti-Corruption Commission (MACC) Putrajaya

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PUBLIC PROSECUTOR V. AZMI BIN SHAROM

melakukan kesalahan di bawah seksyen 4(1)(c) Akta Hasutan 1948 dan boleh dihukum di bawah seksyen 4(1) Akta yang sama.” [1]

The charges relate to two seditious statements made by the defendant as reported by the Malay Mail online on 14.8.2014. The statements read: *“You don’t want a repeat of that, where secret meeting took place,... I think what happened in Perak was legally wrong. The best thing to do is do it as legally and transparently as possible.”* [2]

The defendant claimed trial to the charges. Prior to the commencement of the trial, the defendant applied to the Sessions Court to refer the question on the constitutionality of the Act to the High Court. [3]

On 5.11.2014, pursuant to section 84 of the Court of Judicature Act 1948 (the CJA), the High Court by way of a special case referred the following questions to this Court: *“(i) Sama ada Seksyen 4(1) Akta Hasutan 1948 bercanggah dengan Perkara 10(2) Perlembagaan Persekutuan dan dengan itu terbatal menurut Perkara 4(1)*

PART VI
DISCIPLINARY PUNISHMENTS

Types of disciplinary punishments

40. If an officer is found guilty of a disciplinary offence, any one or any combination of two or more of the following punishments, depending upon the seriousness of the offence, may be imposed on the officer:

- (a) warning;
- (b) fine;
- (c) forfeiture of emoluments;
- (d) deferment of salary movement;
- (e) reduction of salary;
- (f) reduction in rank;
- (g) dismissal.

Fine or forfeiture of emoluments

41. (1) A punishment of fine or forfeiture of emoluments shall be made in accordance with subregulations (2), (3), (4), (5) and (6).



obrigado

Dank U

Merci

mahalo

Köszi

спасибо

Grazie

Thank
you

mauruuru

Takk

Gracias

Dziękuję

Děkuju

danke

Kiitos