

The Sedition (Amendment) Bill 2015

Context & implications

1 INTRODUCTION

Since 2013, the Sedition Act 1948 has become a favoured instrument of state repression in Malaysia.

Below we present a comparison of the current Sedition Act 1948 (last amended 1975) and the changes introduced by the Sedition (Amendment) Bill 2015, passed in Parliament under controversial circumstances. The table has been updated with the last minute amendments to the 2015 amendments tabled on the morning of 9 April, 2015, prior to the second and third reading of the Bill.

Given the ongoing proceedings of Prof Azmi Sharom’s challenge of the Sedition Act’s constitutionality at the apex court, there was debate with the Speaker on the morning of 9 April concerning the legality of tabling amendments to the Act. Yang Berhormat Puchong (Gobind Singh Deo) challenged the amendments on the grounds that it was *sub-judice*.

Citing the example of India’s Lok Sabha, Speaker Pandikar Amin Mulia argued that Parliament could not be subordinate to the courts: “The rule of *sub judice* cannot stand in the way of legislation. Where there’s legislation to be brought, the rule of *sub judice* does not apply.”¹

Following a 12-hour debate the amendments were passed unchanged at 2:30am, 10 April, 2015. Table 1 summarises the changes.

Table 1: Comparison of Sedition Act 1948 and 2015 Amendment

Sedition Act 1948	Sedition (Amendment) Bill 2015
3. Seditious topics: Government Judiciary Race Rulers Secession Special Rights	3. Seditious topics: Government Judiciary Race Rulers Secession Special Rights <i>Religion</i>
Vague Definition of Sedition Intention irrelevant	Definition of Sedition remains vague Intention irrelevant (These vague and sweeping provisions have been preserved since the colonial Sedition Ordinance 1948, and the origins of seditious

¹ <http://www.freemalaysiatoday.com/category/nation/2015/04/09/debate-on-sedition-act-goes-on-says-speaker/>

² For an overview of the old act, see: <http://www.themalaysianinsider.com/sideviews/article/why-the-sedition-act-should-be-repealed-gurdial-singh-nijar>

	libel) ²
Focused on print publications and verbal utterances	Includes electronic media Scope of distribution of electronic media ranges from one or more persons (“section of public”)
Imports of seditious materials	Criminalisation of imports replaced with criminalisation of “propagation”
Unlimited power to AG as Public Prosecutor to levy charges	Unlimited power to AG as Public Prosecutor to levy charges
4. Punishments 4(1) – First Offence: fine ≤ RM5,000 and/or ≤ 3 years jail Subsequent Offence: ≤ 5 years jail	4. Punishments 4(1) – minimum 3, maximum 7 years jail for offence of sedition 4(1A) – minimum 3, maximum 20 years jail for “aggravated” sedition, whereby seditious acts cause bodily injury or property damage. Potential for tenuous link between seditious acts and bodily injury or property damage.
Bailable	5A. No Bail Denial of bail for those charged under 4(1A) “aggravated” sedition. Effective detention before trial on say so of AG Bailable
	5A. Travel Restriction Court can prevent foreign travel of any person charge with sedition by confiscating travel documents
6. Evidence Uncorroborated testimony of one witness cannot lead to conviction	6. Evidence Uncorroborated testimony of one witness permitted via removal of 6(1). Import offence removed.
	6A. Exemptions to Criminal Procedure Code (CPC) sections 173A, 293, 294 No exemption to imprisonment for youthful offenders (18-21 years old), first offenders, un/conditional discharge for offences under 4(1A) “aggravated” sedition * Effectively removes judicial discretion in sentencing
10. Prohibition of seditious publications High Court approves prohibition	10. Prohibition of seditious publications Session Court approves prohibition <i>Every person having any copy of a prohibited publication shall deliver forthwith every such copy into the custody of the police.</i> * Burden on the public. Severe powers of censorship.
Contravening prohibition order: ≤ RM1,000 fine, and/or ≤ 1 year jail	Person can be prohibited from accessing ANY electronic device. * No definition of “electronic device”,

	<p>potentially very expansive.</p> <p>Contravening prohibition order: ≤ RM5,000 fine, and/or ≤ 3 years jail plus RM3,000 per day for continuing offence (prohibited publication stays in circulation, electronic device accessed, etc.)</p>
<p>10(5). Possession of Prohibited Publication Must deliver such publications to police or be liable to: ≤ RM1,000 fine, and/or ≤ 1 year jail</p>	<p>10(5). Possession of Prohibited Publication Must deliver publication to police. Electronic publication must be “removed wholly or partly” (vague scope). Failure means liable to: ≤ RM5,000, and/or ≤ 3 years Continuing offence: RM3,000 per day, or ≤ 1 year jail in default</p>
	<p>10A. Prohibiting Electronic Publications Anonymous electronic posts can be blocked by MCMC</p>
<p>Limited Freedom After Speech</p>	<p>a) Limited Freedom After Speech b) Harsher penalties c) Widespread liability for prohibited electronic media d) “aggravated” sedition has a low threshold (any bodily injury, any property damage), but penalties akin to terrorism, and capital offences. e) “propagation” offence likely to impose a chill factor on social media sharing/retweets/WhatsApp</p>
	<p>Who could be liable for sedition charges</p> <ol style="list-style-type: none"> 1. Webmasters/publishing agents. 2. Speakers when gates were broken at UM. 3. Anyone who circulates a publication with content deemed seditious (cf. Rafizi Ramli Bank Rakyat letter). 4. Anyone who makes a racist or religiously intolerant remark. If such person is a youth they will get 3 to 20 years in jail if someone punches him in the face for such a remark (the person punching is only liable under Penal Code for ≤ 1 year jail and/or ≤ RM2,000 fine). 5. A person makes a statement stirring ill will, someone firebombs their house or place of worship, the first person could get charged under 4(1A). 6. Online media whose articles get prohibited cannot access any electronic device. 7. Any social media user who produces a prohibited publication cannot access any electronic device – <i>de facto net censorship</i>.

2 A NOTE ON THE LAST MINUTE AMENDMENTS

The additional amendments tabled on 9 April, 2015 before the second reading reflected public criticisms following the first reading of the Sedition (Amendment) Bill 2015:

1. An illustration of the demand for secession under Section 3(1)(b) was removed following complaints by Sabahan and Sarawakian representatives. The call for secession nonetheless remains criminalised under Section 3(1)(b) of the Sedition Act.
2. Denial of bail for aggravated sedition offences under 4(1A) was removed in response to complaints by the Bar Council and others that this made aggravated sedition an offence comparable to murder.
3. Importation of seditious publications was struck out as an offence and replaced by “propagation” of such. This broadens the scope of sedition offences, especially in light of content sharing on social media. This is consistent with the government’s intent expressed in the Explanatory Statement to the Bill, which highlights their disapproval of social media as a site of dissent.

3 BACKGROUND TO THE AMENDMENTS AND THE CURRENT CONTEXT

3.1 – Constitutionality of Sedition Act in Question

The constitutionality of the Sedition Act 1948 remains contentious as per Universiti Malaya Professor Azmi Sharom’s ongoing challenge at the Federal Court. Since the Sedition Act restricts freedom of speech, Article 10 of the Federal Constitution requires that such curtailments be passed through Parliament.

The Sedition Act was carried over from colonialism by the Legislative Council of the Federation of Malaya and not by any Parliament of either the post-1957 or post-1963 Federation.³

It is thus arguable that the government has tabled (yet again) an amendment to an unconstitutional law (though the judiciary has yet to render judgment on this).

³ A concise history of the Sedition Act, and its amendments prior to 2015, can be found here: <http://www.themalaysianinsider.com/sideviews/article/the-story-behind-the-sedition-act-surendra-ananth>. On its constitutionality: <http://www.themalaysianinsider.com/sideviews/article/demise-of-the-sedition-act-surendra-ananth>. The author is pupil in chambers at the law firm representing Azmi Sharom.

3.2 – Policy U-turn Since 2012

The Explanatory Statement to the 2015 Bill clearly outlines that the government intended to renege upon the 2012 commitment by Prime Minister Najib Razak to repeal the Sedition Act.

Citing “threats against peace, public order and the security of Malaysia”, the amendments are targeted at the “irresponsible misuse of social media platforms and other communication devices to spread divisiveness and to insult the race, religion, culture, etc. of particular groups of Malaysians without regard for the consequences.”

Prior to 2013, the Sedition Act saw limited use. Following the 2013 General Elections where Barisan Nasional only managed to win 47% of the popular vote, incidences of the Sedition Act being applied dramatically increased. All but two of the eighteen sedition cases in 2013 occurred after the general election.

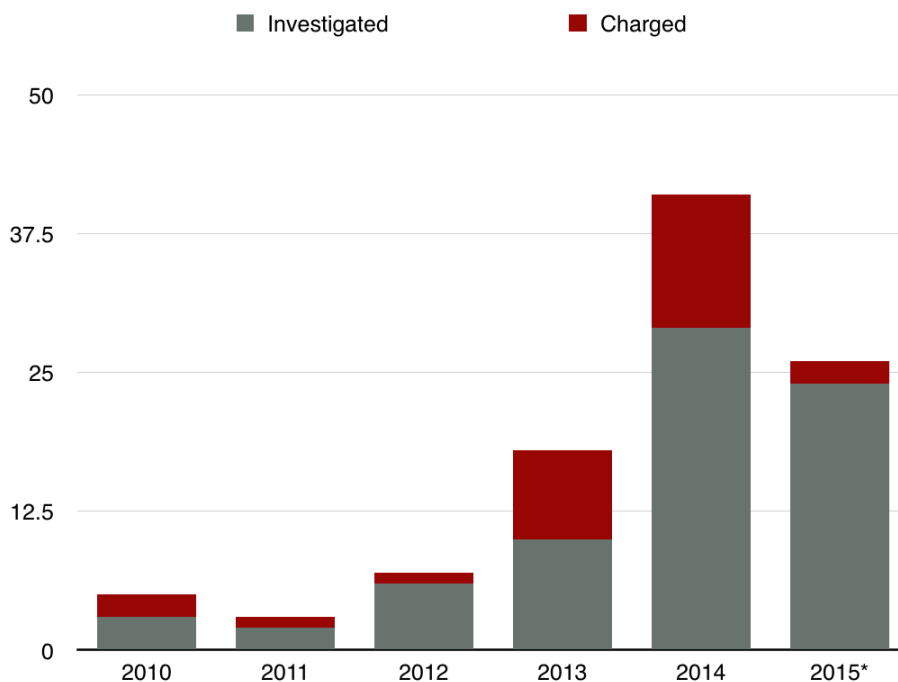
Table 2: Total Sedition Cases 2010 - present

	2010	2011	2012	2013	2014	2015*
Investigated	3	2	6	10	29	24
Charged	2	1	1	8	12	2
TOTAL	5	3	7	18	41	26

* figures to date (April 2015)

Sources: SUARAM Annual Reports 2010-2012, SUARAM monitoring.

Figure 1: Sedition Cases 2010 - present



* figures to date (April 2015)

3.3 – Selective prosecution

A minority of the sedition cases investigated over recent years relate to right-wing NGOs such as PERKASA (Ibrahim Ali) and ISMA (Abdullah Zaik), who are generally aligned with the government, or at most, critical of its more liberal policies. The overwhelming majority of sedition cases involve opposition politicians, social activists, a cartoonist, a stand-up comedian, social media users, academics and journalists.

On 19 April, 2015 a protest took place in Taman Medan where a group of 50 people demanded that a new church take down its cross, as it was challenging Islam. The group comprised members of ruling party Umno, and were led by the brother of the Inspector General of Police (IGP). The church relented and took down its cross.

Members of the public and a number of politicians raised the issue of whether the act was seditious (presumably in light of the new definition, which is not yet law until it receives royal assent and publication in the Gazette).⁴

Within a day, the IGP declared that the incident was not seditious. However, the Home Minister Zahid Hamidi (an Umno leader who tabled the Sedition amendments) differed, saying that it was seditious and the protestors should be investigated.

Besides constituting an example of selective prosecution and conflict of interest, the incident provided an opportunity for critics of the Sedition Act to demand its fair use, indirectly undermining the case for its abolition. Acceptance of the Home Minister's call for an investigation could be used to support the validity of the Sedition Act and its amendments.

At the time of the incident the amendments bringing religion into the fold of the Sedition Act were not yet law. This means that for an investigation to take place under Section 3(1)(e), a Christian would likely have to be considered a "race or class of the population of Malaysia".

3.4 – Amendments Tailored to Government's Current Political Strategy

The 2015 amendments to the Sedition Act follow a pattern established by the Najib Administration since the Peaceful Assembly Act of 2012, whereby legislation restricting civil liberties has been bundled with superficially progressive provisions, or a more pleasant name.

This has allowed the government to present such measures as improvements and reforms rather than refurbishment and rebranding. This has been part of

⁴ The old definition of sedition has been used to cover ostensibly religious offences, such as the stunt by Alvin Tan and Vivienne Lee suggesting the Ramadhan fast be broken with the pork-laden *bak kut teh* in a 2013 Facebook posting.

a political strategy to recapture liberal sentiment, on the one hand, and bolster overseas perception of Malaysia as a ‘moderate Muslim’ state, on the other. The need to maintain the latter status may have ceased since Malaysia secured a non-permanent seat in the UN Security Council effective 2015.

The failure of liberal voters to return to Barisan Nasional in 2013 and Umno’s abandonment of conciliatory multi-cultural positions, has opened space for Umno hardliners to promote a more authoritarian political strategy. While most Presidents from the ethno-nationalist Umno moderated to a more inclusivist message once becoming Prime Minister, Najib swiftly abandoned this approach and reversed course.⁵

The ongoing internal power struggle within Umno between the Najib and Mahathir camps may have also contributed towards the adoption of a more authoritarian approach. In the past, internal crises within Umno have been marked by mass arrests of the opposition and activists, as well as Umno members from dissenting factions.

The most significant such incident was Operation Lallang (“Weed”) in 1987 where, amidst a leadership challenge within Umno, 106 politicians and activists were detained without trial under the Internal Security Act (ISA), and two newspapers were shut down. Subsequent events involving legal challenges from the ‘Team B’ losers of the Umno elections, and a successful legal challenge by detained politician Karpal Singh, led to then-Prime Minister Mahathir Mohamad ending judicial independence via a series of constitutional amendments and the irregular dismissal of the Lord President of the Supreme Court.

Since the beginning of February 2015, opposition leader Anwar Ibrahim has been jailed amidst concerns about judicial independence, and close to 160 people, mostly opposition and civil society activists, have been arrested under the Sedition Act, Peaceful Assembly Act, Penal Code and other laws, in relation to protests, social media comments, and news reports.

In this context Barisan Nasional used the April 2015 sitting of Parliament to return the ISA’s detention without trial powers via the Prevention of Terrorism Act 2015, as well as retain and strengthen the Sedition Act.

The Sedition (Amendment) Bill 2015 follows the recent pattern of placing fig leaves over more outrageous measures to curtail civil liberties.

Despite removing criticism of government and judiciary from the definition of sedition, the amendments add religion to the list, which already included the rulers, race, secession, special rights of *bumiputera*, and the status of the national language. This means that wide areas of government policy and subjects of judicial decisions remain liable for sedition charges. Government

⁵ This pattern is charted out for Malaysia’s first four Prime Ministers in Cheah Boon Kheng (2002), *Malaysia: The Making of a Nation*, Singapore: ISEAS.

policy affecting issues of race, religion, and secession have attracted much controversy and debate from members of the public, including but not limited to, politicians and activists.

Given the introduction of mandatory prison sentences and the recent escalation in the use of sedition charges against dissidents, it appears clear that the Sedition Act remains true to its historical origins of punishing the critics of absolutist governments which brooked no political competition.⁶

While the roots of Malaysian liberal democracy find themselves in shallow soil, sedition laws are incompatible with the liberal provisions of the Federal Constitution, international human rights norms, and the maturation of competitive democratic government in Malaysia.

Criticism of the state and its policies is a fundamental aspect of democracy, given that voters hold the power to sack their governments via the ballot; a decisive critique. Sedition laws aim to restrict citizens' ability to criticise or share criticism of government and its policies. They thus provide a way for an incumbent government to insulate itself from accountability.

The anti-democratic impact is more pernicious in the context of limited media freedom, poor electoral integrity, and signs that the judiciary remains under the influence of the executive arm of government. These factors make it very difficult to secure peaceful and orderly regime change via the ballot box. Opposition politicians committed to the democratic process, no matter how compromised, face the prospect of jail for drawing public attention to problems arising from government policy if such acts are deemed seditious.

It is clear that the 2015 amendments are being made in light of recent uses of the Sedition Act by the authorities against dissidents since 2013:

- a) Some individuals charged with sedition have escaped the dragnet by going overseas. The Immigration Department subsequently revoked their passports.⁷ Thus, the travel restriction provisions under 5A would prevent, or at least hinder, another Alvin Tan or Ali Abdul Jalil from fleeing overseas.
- b) A repeat of the Universiti Malaya incident (27 October, 2014), where a gate was forcibly opened after campus authorities refused to allow Anwar Ibrahim permission to speak on campus, could lead to speakers

⁶ The formulation of the offence of sedition currently in use in Malaysia can be traced to the English Star Chamber's seditious libel case *De Libellis Famosis* of 1606, where the truth or intention is deemed irrelevant. Since the time of Henry VIII, the Star Chamber was used as a political weapon against enemies of the King. See, for example: <http://www.malaysiakini.com/news/295436>; <http://law.jrank.org/pages/2020/Sedition-Domestic-Terrorism-early-English-experience.html>. In colonial Malaya the Sedition Ordinance 1948 was enacted in two in response to anti-colonial agitation. The targets of the Ordinance were not only communists who had undertaken armed struggle, but also non-militants such as journalist A. Samad Ismail and Pan-Malayan leftist Ahmad Boestamam, both recognised as heroes of independence.

⁷ <http://www.thestar.com.my/News/Nation/2014/12/08/Immigration-Dept-revokes-passports-Ali-Alvin/>

servicing mandatory imprisonment of 3-20 years if convicted of “aggravated” sedition under 4(1A). Youth speakers would have more to fear as the option for lenient alternatives to imprisonment provided for under section 293 from CPC is struck out.

Given that demonstrations usually involve some publication or speech before, during or after, it appears that both 4(1) and 4(1A) could easily be used to impose mandatory imprisonment on those convicted in relation to a demonstration. There is considerable scope for *agents provocateurs* to precipitate 4(1A) charges, or for incidents of bodily harm or property damage tenuously linked to seditious acts to lead to 4(1A) charges.

Effectively, any charge of sedition can be escalated if some bodily injury or property damage is linked to it.

- c) The shift to include electronic media offences under the act is indicative of most recent usage of the Sedition Act.

More citizen social media users were probed/charged for sedition in 2014 than politicians. Out of a total of 41 cases in 2014, 16 were social media users with no obvious political connection, five with political affiliations were investigated for social media postings. Slightly over half of the sedition cases in 2014 were related to social media (not including articles published online).

Prior to the amendment, the police considered an online posting to be a “publication” under the existing law. The new amendments simply make that explicit and include any degree of dissemination (“public or section of the public”). Websites and webmasters are likely to be adversely affected by this.

The inclusion of “propagation” as a sedition offence is likely to lend itself to sweeping implications in relation to the sharing functions in social media such as the retweet, Facebook posting, or WhatsApp chat groups that are popular amongst Malaysians. Around half of the Malaysian population uses Facebook.

Internet access is highly correlated with awareness about government scandals. A survey by the Merdeka Centre on scandal-ridden government wealth fund 1Malaysia Development Berhad (1MDB) found that 87% of those unaware of 1MDB’s problems had no internet access.⁸

Measures to restrict social media sharing seem clearly aimed at reducing the influence of opposition political parties and bolstering the existing dominance the government enjoys over print and broadcast media.

⁸ <http://www.themalaysianinsider.com/malaysia/article/half-of-voters-pollled-lack-confidence-in-putrajayas-handling-of-1mdb-says-s>

While sedition charges generally appear to be selective and targeted at activists and opposition politicians, there have been sufficient numbers of ordinary persons investigated under the law to create a chill factor amongst the broader public.

Anecdotal observation since the passage of the sedition amendments indicates that some citizen users of social media are urging each other to self-censor in order to avoid charges of sedition.

- d) The prohibition orders under Section 10 that restrict a person charged with sedition from accessing any electronic device are very sweeping. There is no definition of “electronic device”, so infringements of the order could be decided in bad faith to extend beyond computers, tablets, and phones to more commonplace devices.

The digital prohibition order represents a potential means to ensure *de facto* net censorship, especially with bloggers. Online media could face heavy fines if they continue to access the internet once an article is deemed seditious. Digital prohibition may also prevent someone from earning their livelihood if they are dependent upon computing.⁹

The fine of RM3,000 per day of violation of the digital prohibition order is likely to offer a stiffer deterrent to individual social media users rather than organizations. The median monthly wage in Malaysia was RM1,500 as of 2013.

- e) Pursuant to Article 48 of the Federal Constitution, conviction under the amended Sedition Act would immediately disqualify politicians from membership of any legislative assembly due to the minimum imprisonment sentence of three years and the abolition of fines.

Imprisonment of a year or more is sufficient to disqualify a member of any legislative assembly. In the past, opposition parliamentarians such as Fan Yew Teng (1975) and Karpal Singh (2014), both from the Democratic Action Party (DAP), were found guilty of sedition and fined RM2,000, an amount sufficient to forfeit their seats.

- f) “Propagation” to the “public or section of public”: In 2014, opposition MP Rafizi Ramli was investigated for sedition for disclosing to the media a letter from a minister to Bank Rakyat. The letter purportedly demanded preferential treatment for a politically connected businessman. A police report filed by an NGO charged that the letter itself was seditious, meaning that the minister would be offender.¹⁰

⁹ For more on the implications for digital media, see: <https://www.digitalnewsasia.com/insights/bread-kaya-how-the-new-sedition-act-affects-netizens>

¹⁰ <http://www.themalaysianinsider.com/malaysia/article/rafizi-probed-for-sedition-over-ministers-letter-to-bank-rakyat>

Rafizi disclosed that he suspected that he was investigated under the Sedition Act so that the identity of his source could be determined.

However, under the new amendments someone like Rafizi would also be liable for “propagating” a seditious publication.

- g) Adding religion as a subsection of the definition a “seditious tendency” in Section 3(1) would make cases such as Alvin Tan and Vivienne Lee’s Ramadhan *bak kut teh* provocation more explicitly religious offences (as opposed to being filed under race and class).

3.5 – Redundancy of the Sedition Act in light of the Penal Code

Sufficient measures are present within the Penal Code to address incitement to violence, criminal intimidation, and other breaches of the peace.

While the Penal Code addresses religious offences (insult, ill will, etc.), it does not specifically address provocation on racial bases.

A now-superseded initiative by the National Unity Consultative Council (NUCC) to develop replacements for the Sedition Act proposed criminalisation of hate speech intended to threaten or incite physical harm towards others on the basis of their race or their religious belief.¹¹ This would have set a higher threshold than the Sedition Act and permitted some freedom of speech without condoning incitement of violence. It remains arguable whether the Penal Code’s provisions on criminal intimidation would be more than sufficient, though the NUCC committee felt a strong message needed to be sent on racialised threats of violence.

However, the Penal Code does not readily lend itself to broad and arbitrary application, which makes it unattractive to an authoritarian government seeking to entrap its critics. For such purposes, the old and new Sedition Act remain useful.

4 POLITICAL OUTLOOK

The amended Sedition Act is likely to be enforceable by June 2015.¹² The new provisions maintain the Sedition Act as a broad instrument to promote authoritarian rule.

¹¹ NUCC draft bills; <http://www.thenutgraph.com/why-malaysia-needs-the-national-unity-bills/>.

¹² The Deputy Home Minister Wan Junaidi Tuanku Jaafar has stated that the Prevention of Terrorism Bill 2015, passed in the same session as the Sedition Act amendments is likely to be enforceable from June, following approval from the Senate and royal assent from the Yang Di-Pertuan Agung. The Bill will not become law until printed in the Government Gazette. If it follows a comparable timeline to past bills, such as the Goods and Services Tax Bill 2014, the Sedition (Amendment) Act 2015 will likely be gazetted by the second week of June 2015 (<http://www.thestar.com.my/News/Nation/2015/04/15/Pota-anti-terror-law-by-June/>).

In light of questionable judicial independence, the mandatory jail sentences for all sedition offences present a harsh, draconian, penalty for those who speak up on matters of race, religion, rulers, special rights, and secession.

Removing criticism of government and judiciary from the definition of sedition will do little to diminish the punitive use of the Sedition Act by the executive arm of government. Those arrested can be branded enemies of society rather than enemies of the state or justice.

This would allow Umno/Barisan Nasional to rehearse a familiar role as the protector of a society that is alleged to be a racial and religious tinderbox, kept safe only by strong leaders, strong laws, and strong measures.

The concept of sedition is predicated on the idea that a government or society is vulnerable to destabilisation through acts of speech or publication, and that a government is entitled to silence critics with sweeping discretionary prosecution. A government unable to bear the sting of words must wage war against them by means of law.

The restrictions on free speech established by the old and new Sedition Act have serious consequences for the conduct of opposition politics and civil society in Malaysia.

Agitation on racial and religious matters is central to Umno/Barisan Nasional's legitimacy. It alternates from playing the moderate protector of the public or section of the public from provocations from kindred third parties, to playing the immoderate defender of communal interests against vulnerable minorities or more liberal opponents.

Opposition politicians and civil society activists frequently comment on such issues since they shape broader currents of policy and the national question, particularly the issue of inclusion. The Sedition Act places such commentaries in legal jeopardy.

The entry of aggravated sedition into the law may fuel an escalation of political theatre engineered by the government, its proxies, or those emboldened by the inflammatory rhetoric deployed by members of the ruling party. Fire bombings of places of worship (mostly Christian) were an annual feature between 2010-2014. Similar acts, possibly perpetrated by *agents provocateurs*, could help sustain a *de facto* sense of siege under which laws such as the Prevention of Terrorism Act 2015 or the Sedition Act could be deployed to 'maintain order' and bolster the government's political legitimacy.

The Malaysian government has a well-established track record of abusing sedition and anti-terror legislation to suppress anti-colonial activists, politicians, social activists, students, academics, cartoonists, and stand-up comedians.

The 2015 amendments to the Sedition Act are clearly tailored to those dissenting voices investigated or charged since 2013.

Charges under the amended Sedition Act may be pressed at a strategic time ahead of the next general election, which is expected to be by 2018 latest. Similar to the treatment enjoyed by Opposition Leader Anwar Ibrahim since 1998, any elected representatives sentenced for sedition would be disqualified from public office for the duration of their sentence plus five years. Their minimum time exiled from political office would be eight years.

Given that some of the most vocal leaders of the opposition and civil society have incurred sedition investigations or charges since 2013, the amended Act could easily be used to thin the ranks of the opposition in Parliament for two to five election cycles, a period of 10 to 25 years.¹³

This would put a strain on the talent pool of opposition politics, as well as make it a calling only for those willing risk their liberty and a tenth of their life exiled from political office.

Introducing such a chill factor into opposition politics would increase the level of single-party dominance in Malaysia, and consolidate authoritarianism.

It would also ultimately weaken Malaysia's capacity to mature as a democracy that is able to constructively utilize informed criticism from patriotic citizens.

Finding it hostile to the conduct of democracy and accountability of government, we recommend the wholesale abolition of the Sedition Act 1948.

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The author would like to acknowledge the kind assistance of Michelle Yesudas, Legal and Campaign Coordinator of Lawyers for Liberty; Melissa Sasidaran, Co-Deputy Chairperson of the Bar Council Constitutional Law Committee; Serene Lim, Documentation & Monitoring Coordinator at SUARAM; and, Prof Gurdial Nijar of the Faculty of Law, Universiti Malaya, on the legal implications and numbers of arrests. The views expressed here are solely those of the author.

Updated: 21 April 2015 (an abbreviated version of this analysis was originally presented as a briefing to Parliamentarians and activists).

¹³ The government and the public prosecutor will have some discretion over whether to drop existing charges and investigations under superseded parts of the Sedition Act, or whether to leave such cases hanging since they are not subject to any statute of limitations.