

In the previous article, we have assessed how malapportionment divides Malaysian society due to certain demographic backgrounds and particular patterns associated with constituencies with different electorate sizes. This article focuses on step-by-step process to rectify issues with our unfairly drawn constituencies.

First Step: Fixing Polling District Mess

13th Schedule of the Malaysian Constitution lays the guidelines on how constituencies are drawn. One of the key rules for drawing electoral boundaries is the constituencies have to be drawn with consideration of facilities that can assist for voter registration and polling machinery. With the implementation of Undi18, the process itself exposed a hidden problem in redelineation – insufficient polling centres.

Every voter is assigned to a polling district (the building block of constituencies) where the polling district is assigned to a polling centre. While one can assume the said polling district would have an in-house polling centre, the reality is many polling districts are drawn with little consideration of polling centre availability. For example, around 13% of the electors of Penang has been asked to vote outside their home state constituency as Election Commission (EC) drawn constituencies with insufficient polling centres. After GE14, four states (Pulau Pinang, Selangor, Johor, and Terengganu) have been contemplating to trigger redelineation by changing the number of state (DUN) constituencies. Unfortunately, these state governments did not highlight the issue of poor allocation of polling centres by EC. All state governments must lobby EC to ensure every polling district are drawn with these five principles:

1. 1. Polling Districts to respect mukim and local council boundaries and local ties
2. 2. Polling Districts to have an electorate size of 2 – 4% of Parliamentary Electoral Quota of the state (average Parliamentary electorate size)
3. 3. Polling Districts to have names representative of the area
4. 4. Polling Districts to have two in house facilities for polling centres
5. 5. Correct association of voters to polling districts

The first step for fair redelineation journey requires no constitutional amendment as it is under EC's domain. EC must be pressured to fix the polling district mess first. If state pursues DUN

size increase without this first step, more inaccessible constituencies for voters will be created.

Second Step: Getting Constituency Count Right

The second step for fair redelineation especially states who want to fix their constituencies is getting constituency count right. I lay one major question to the readers – is the current Dewan Rakyat size ideal for our Malaysian population size? If we use well known cube root rule (taking cube root of 2021 population), the number of MPs would increase from 222 to 319. If we use the Wyoming rule (for our case, dividing the population of Malaysia with population of Perlis or Labuan), we would have either 128 MPs (if we use Perlis) or 327 MPs (if we use Labuan). Currently, it is not possible for politicians to accept a decrease for the Dewan Rakyat size, nor they are focusing on increasing the Dewan Rakyat size.

For the states who are contemplating to trigger redelineation through DUN size increase, these states should consider applying the principle of multiple for DUN size. The principle of multiple states that the total constituencies of DUN shall be the same or multiple of Parliamentary constituencies of a given state. First implied in the 1957 constitution, codified in 1962 and repealed in 1983, the principle of multiple is the first step for concurrent equalization for DUN and Parliamentary constituencies. In Malaysian history, the full potential of this principle was realized once – the 1960 redelineation, the last fair redelineation in Malaysia. For example, Selangor has 22 parliament and 56 constituencies currently. Hence, even if EC did fair redelineation where all DUN constituencies were within +/-15% of State DUN Quota (average State constituency size), it will not be possible for EC to do same at the parliamentary level. In the previous article, I have shown a table of the disparity of largest and smallest parliamentary constituencies for every state. Even with the implementation of Undi18, the three states who retains the principle of multiple – Pahang, Perlis, and Terengganu – have the lowest disparities in the country. Perlis is the only state where all parliamentary constituencies are equal. Terengganu has no reason for DUN increase as it has respected the principle of multiple. Some argued that DUN size should be an odd number for governance reason. However, a state should only consider odd number for DUN Size if the principle of multiple is adhered to.

As this step require constitutional amendment, ideal constituency count should be deliberated carefully together with consideration of state financial capacity.

Third Step: Defined Limits for Constituency Size

The third step for fair redelineation is defining clear upper and lower limits for constituency's electorate size. Ideally, we should aspire the allocation power of parliamentary constituencies to be taken away from Dewan Rakyat and hand it to future Boundaries Commission (a new body).

This will allow full rectification of interstate malapportionment (where currently, Selangor's voting value less than Pahang's voting value). The future Boundaries Commission should allocate parliamentary constituencies to each state due to population/electorate size without causing undue disparity among states. Within a state, all DUN and Parliamentary constituencies should be drawn within +/-15% of State Parliamentary/DUN Quota for Peninsular Malaysian states. With Kelantan being the last state to join the urbanization club in 2019, particularly for Peninsular Malaysia, majority of the constituencies are accessible through road and telecommunication networks. Together with principle of multiple, this will equalize all constituencies. For Sabah and Sarawak, we will use the limits of +/-25% of State Parliamentary/DUN Quota.

For states that intend to trigger redelineation, they must lobby EC to ensure constituencies are within the electorate size limits mentioned before. Some argue that it is possible to codify such hard limits on constituency size within state constitutions. Legal advisers must be consulted whether such possibility does not collide with Federal List (as Elections (including redelineation) falls under federal responsibility).

As this step requires constitutional amendment, defining appropriate limits (i.e., +/-15%) is crucial step to enforce equalization for all Malaysians (in electoral sense).

Fourth Step: Respecting Local Ties

With equalization in mind, all constituencies are drawn with proper respect to local boundaries or local ties such as administrative districts, local council boundaries and development blocks. Adherence to local boundaries must be done in the view of two major considerations

1. 1.Ability to draw constituencies that respect principle of equality
2. 2.Ability to draw constituencies with a regular shape

In Malaysia, there are local council and district areas that have exclaves (i.e., Muallim in Perak and Padawan Municipal Council in Sarawak). In this instance, constituencies drawn should not follow such boundaries completely as such districts or council areas have disrespected local ties. Secondly, we must understand administrative and local council areas are drawn with different intent and not with equalization in mind. If local council area (with 'x' number of electors) can fit 3.5 parliamentary constituencies, EC should be given the space to draw a parliamentary constituency to straddle over two local councils. Equalization must take precedence. To minimize such occurrence, the state government and EC should discuss to fix

the polling district shape as soon as possible before a redelineation takes place. The state government should remove any inconsistencies between local council and administrative boundaries (i.e., Selangor) so that confusion does not arise during the redelineation process. Moreover, DUN constituencies should be parked under one council or district area as much as possible. We must acknowledge that the design of the constituency can bear influence who becomes Returning Officer for a given election. In 2018, the RO for DUN Rantau was the District Officer for Rembau and he blocked the entry of Dr S Streram on frivolous grounds (causing an uncontested victory). The bigger issue is DUN Rantau received a RO from a different district. Rantau is geographically located in Seremban District yet electorally associated with Rembau Parliamentary constituency. The Rembau constituency was drawn in a way that violated local ties as child DUN constituency of Rantau has minimal local ties with Rembau district. In 2019, EC appointed the right RO - Seremban District Officer - for the DUN Rantau by-election.

In short, state government and EC should ensure constituencies are drawn in a manner that respect local ties and this ensure the right electoral administrators run the elections of a given area.

Conclusion

It is important that the groundwork for fair boundaries can be laid without requiring constitutional amendments right away. At this point, every state government should discuss with EC to fix polling districts. Subsequently, for the states who wants to trigger redelineation, determining the right constituency count is of paramount importance. Finally, governments (either state or federal or both) should looks way to ensure necessary constitutional amendments are made to eliminate gerrymandering and malapportionment. By understanding the sequence for fair redelineation, fair treatment for all Malaysians would be made possible.

Danesh Prakash Chacko works as a research analyst at Jeffrey Sachs Center on Sustainable Development (Sunway University). He also serves as the Director of Tindak Malaysia, an electoral reform advocacy group