



TINDAK MALAYSIA 2021 TRAINING #4

Case Studies for Redelineation

CONTENTS

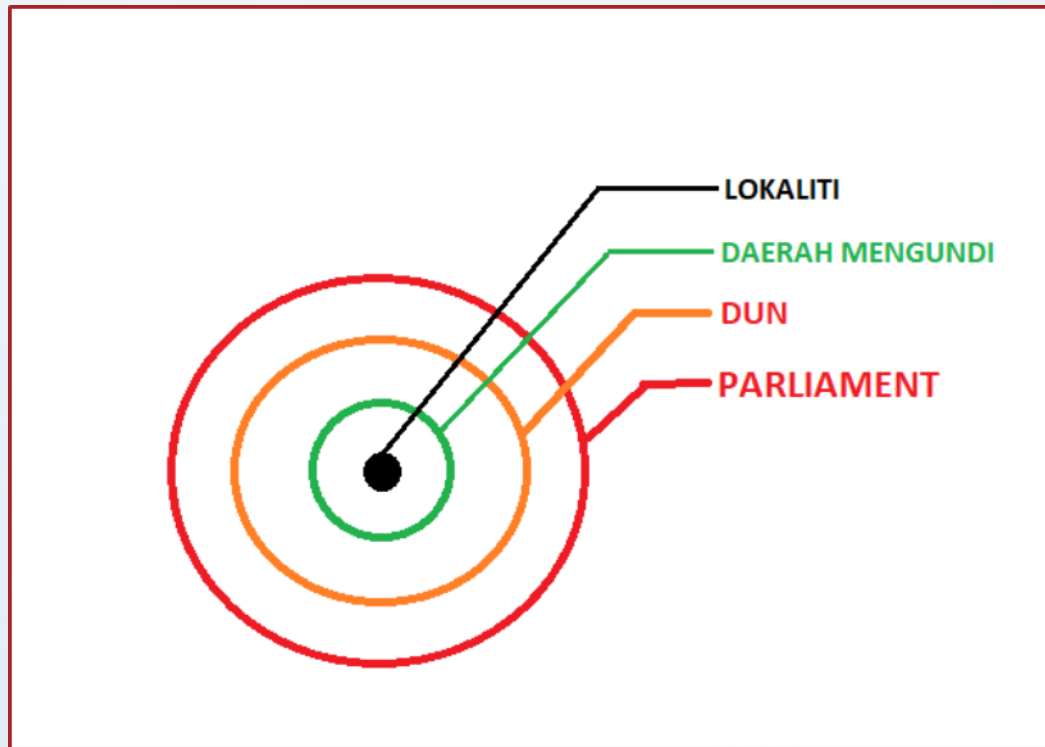
- Basics of Delineation
- Building Blocks of Redelineation
- Study of 13th Schedule (2) (a) (b) (c) (d)

Basics of Delineation

- Definition
- Has two parts: Apportionment and Delimitation
- Relevant Articles/Schedules: Articles 2, 46, 113, 114, 115, 116, 117 and 13th Schedule
- 13th Schedule Principles
 - (A) Federal Seats are nested within the state and DUN doesn't cross Federal Seat Boundaries – **HONOURED**
 - (B) Consideration of available facilities for polling and voter registration – **VIOLATED**
 - (C) Constituency to have approximately equal voting population with the exception of country and weightage to be applied for those districts - **VIOLATED**
 - (D) Preservation of Local Ties – **VIOLATED**
- **Aim** of the Redelineation is to comply with the **Principles of 13th Schedule (Article 113 (2))**

Building Blocks of Redelineation

- Building Blocks: Address, Localities and Polling Districts



Source: EC Malaysia



- Blue indicates locality
- Red indicates polling district (DM)

13th Schedule Clause 2 (a)

- 2 (a) – *“while having regard to the desirability of giving all electors reasonably convenient opportunities of going to the polls, constituencies ought to be delimited so that they do not cross State boundaries and regard ought to be had to the inconveniences of State constituencies crossing the boundaries of federal constituencies;”*
- **Meaning**: Parliamentary Seats shall not cross the state boundaries and no DUN seats shall straddle between two parliamentary seats. A DUN is a subset to Parliament

13th Schedule Clause 2 (a)

- Why Honour this Clause 2(a)?
 - To avoid issues in the production of electoral rolls
 - To avoid voter confusion on polling day
 - (for Pre Automatic Voter Registration - AVR), not to cause problems for voter registration process

13th Schedule Clause 2 (b)

- 2(b) – *“regard ought to be had to the administrative facilities available within the constituencies for the establishment of the necessary registration and polling machines;”*
- **Meaning**: When a parliamentary constituency and state constituency is drawn, it is important to know the presence of administrative facilities and voter registration facilities for the purposes of voter registration and polling
- An important element appears in this clause: District Boundaries, Bahagian Boundaries (Sarawak) have to be considered. An emphasis that a constituency should fall under the administration of Local Authority or District Authority

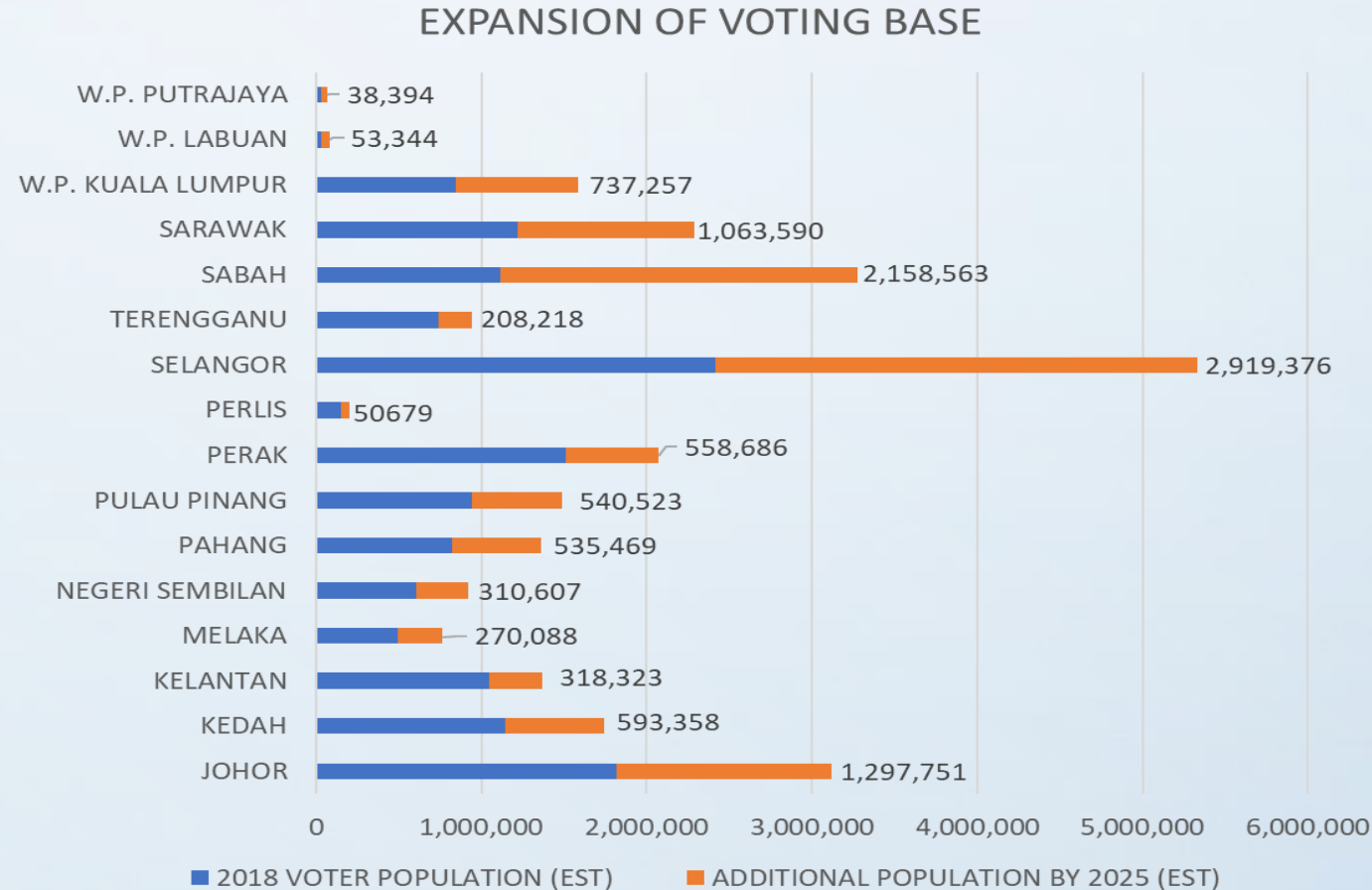
13th Schedule Clause 2 (b)

- Why Honour this Clause 2(b)?
 - Voter Registration can be done smoothly (pre AVR)
 - Conduct of Elections can be done properly
 - Polling machinery can operate efficiently
- A polling district defines where you vote. According to Elections Act (1958) (7)(3) – One polling district = One polling station. But there are exceptions where one polling district = >1 polling station
- Which offices are involved in Voter Registration – EC HQ, EC State Office, Post Office, EC Outreach Counters etc, Locations where Assistant Registration Officers are serving

13th Schedule Clause 2 (b)

- Clause 2 (b) in context post GE14 and Undi18
 - Number of voters per stream have reduced from 750 per stream to 600 per stream after GE14. Covid procedures have reduced the number of voters per stream from 600 to 400
 - Mere reduction of 750 to 600 voters per stream would result in increase of 13000 streams
 - Implementation of Undi18 (inc. AVR) may result at minimum of an increase of 5.6 million new voters. The biggest increase in history
 - If a constituency has 20 Polling Districts and 20 polling stations, has the constituency drawn in consideration of evolving electorate size?

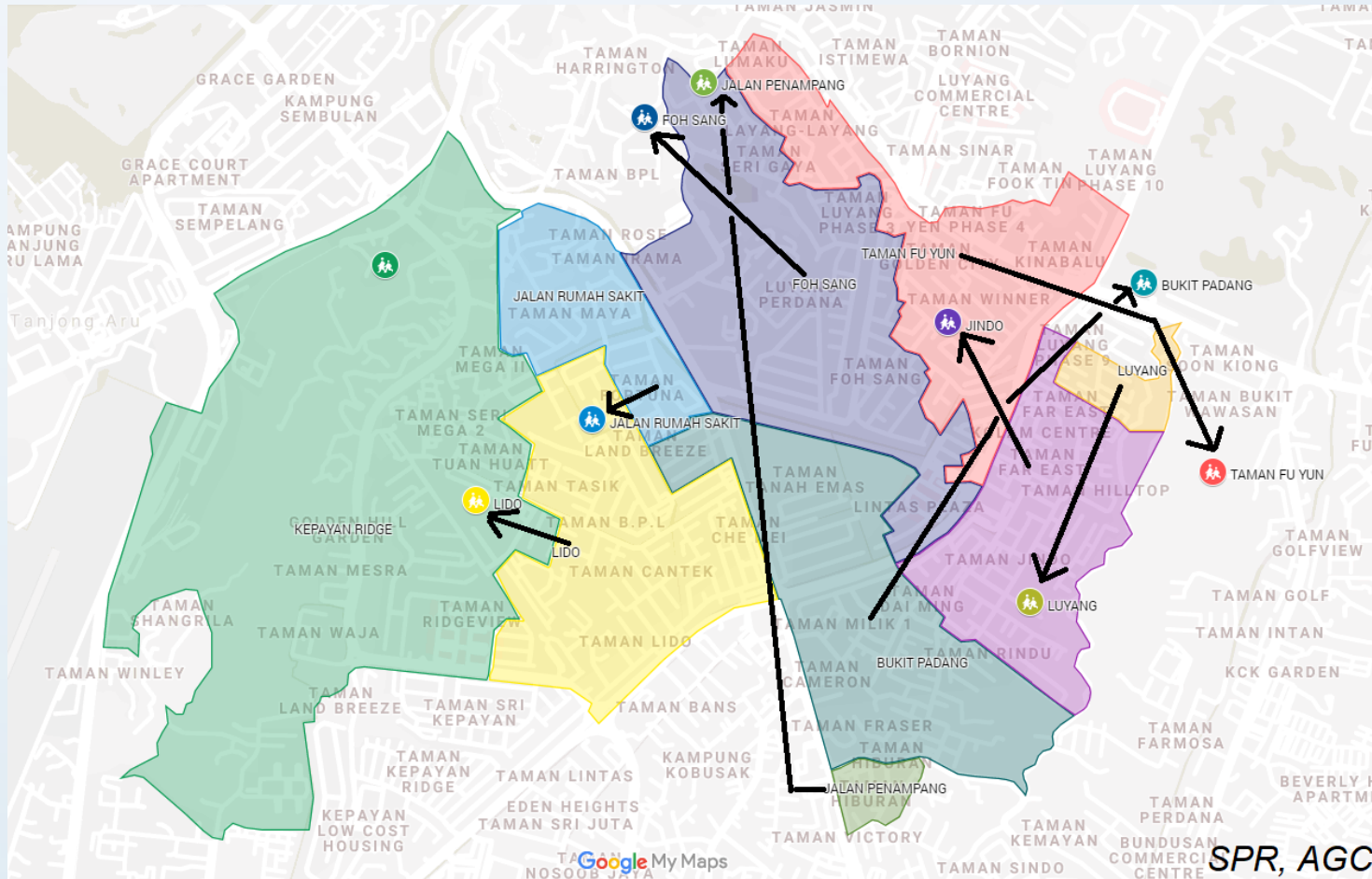
13th Schedule Clause 2 (b)



Estimating the
impact of Undi18

Source: DOSM, EC Malaysia

13th Schedule Clause 2 (b)



DUN Luyang in Greater KK (Sabah)

- Why polling stations for Foh Sang, Bukit Padang and Taman Fu Yun are outside the DUN?
- Is the Constituency lack enough facilities for polling?

Example Constituencies with polling stations of the DUN :
Semenyih (Selangor) & Tanjong Papat (Sabah)

13th Schedule Clause 2 (c)

- 2(c) – *“the number of electors within each constituency in a State ought to be approximately equal except that, having regard to the greater difficulty of reaching electors in the country districts and the other disadvantages facing rural constituencies, a measure of weightage for area ought to be given to such constituencies;”*
- **Meaning**: With the removal of Articles 116 (3)(4)(5), there are no limits to deviation (for constituency electorate size). With free hand, EC able to justify each constituency has its own communication difficulties, area, demographics and geography to create oversize and undersize seats

13th Schedule Clause 2 (c)

- Why Honour this Clause 2(c)? **Caution Required**
 - The part of the clause that must have proper honouring is the approximately equal. Honour One Person One Vote One Value (OPOVOV)
 - The problem with the definition of urban-rural for redelineation is it didn't exist for 2015 Sarawak Redelineation, 2018 Peninsular Malaysia Redelineation and 2019 Sabah Redelineation (overdue)
 - For rural areas, a weightage is given based on area. However, this is subjective.
 - Why Lipis (undersize) has an electorate size half of Jerantut (just nice)? Both are largely rural and Jerantut is nearly twice the size of Lipis? What weightage are we talking about?
 - Difficulties in reaching electors – Responsibility of government and state to overcome difficulties (physical and virtual)

13th Schedule Clause 2 (c)

- When there is a violation of Clause 2(c), it gives birth to **malapportionment**. Malapportionment is creation of electoral districts with divergent ratios of voters to representatives
- Clause 2(c) unfortunately limited to contain intrastate malapportionment with some loopholes in it
- Two forms of malapportionment appeared in 2016-2018 Redelineation
 - Unrectified : Penang
 - Aggravated : Selangor

13th Schedule Clause 2 (c)

Unrectified Malapportionment

- Case: Penang hardly experienced Redelineation with exception of polling district reshaping in Balik Pulau and Kepala Batas
- Allowing Undersize seats to depopulate and allowing oversize seats to overpopulate without doing anything (Penang)
- Average Seat Size: 66750 (2016) & 73346 (2019)
- Tanjong (George Town): Undersized by 25% (2016) and now 32% (2019)
- Tanjong is an undersized Urban Seat

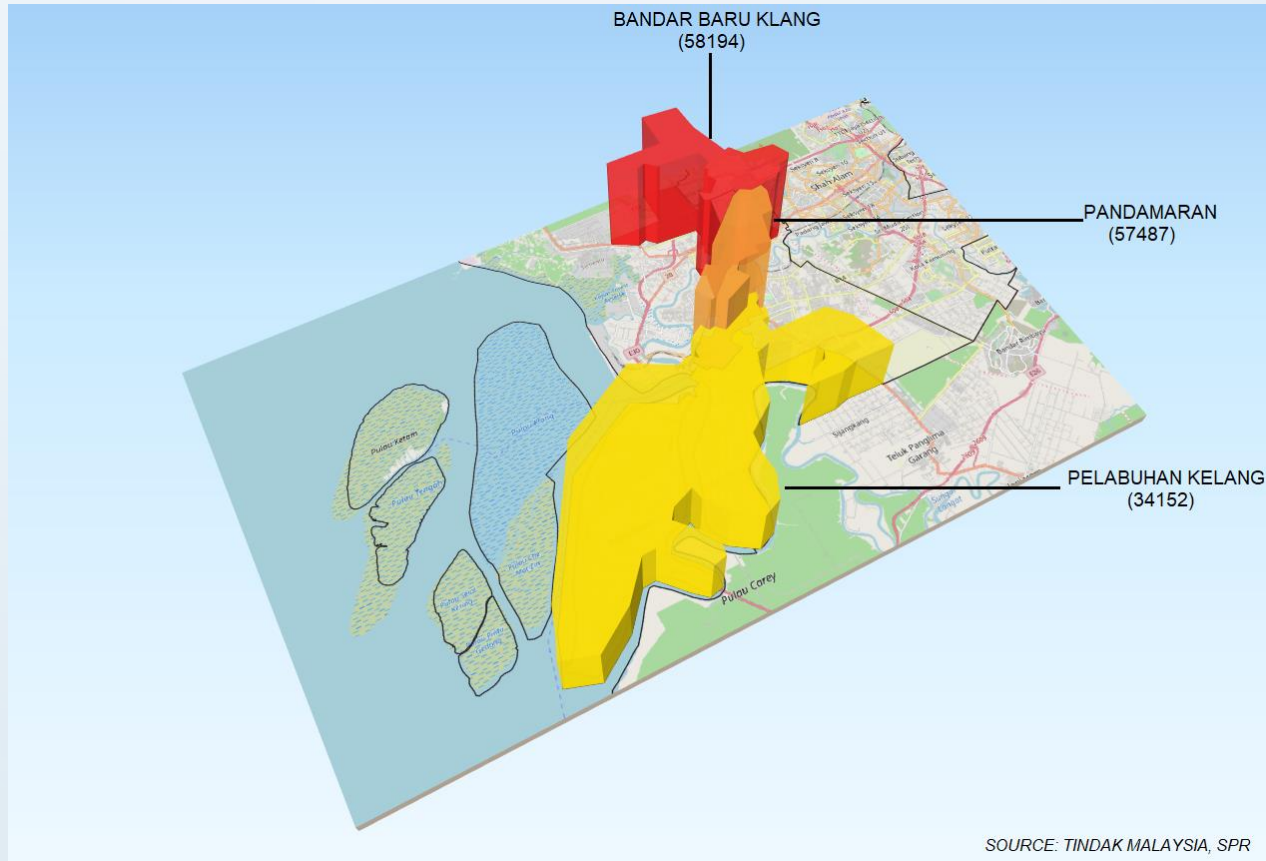
<i>Deviation from Electoral Quota of the State</i>	<i>2013 Affected Seats</i>	<i>2016 Affected Seats</i>	<i>Voter Population Growth (2013 - 2016)</i>
Exceeding - 33%	2	2	-5.72%
-33 % to - 15%	10	10	0.68%
-15% to 0%	10	10	2.98%
0 to 15%	8	8	3.03%
15% to 33%	5	5	1.87%
Over 33%	5	5	4.90%

Number of Penang DUN Seats by Deviation from Electoral Quota Ranges

Source: EC Malaysia, Tindak Malaysia

13th Schedule Clause 2 (c)

Aggravated Malapportionment

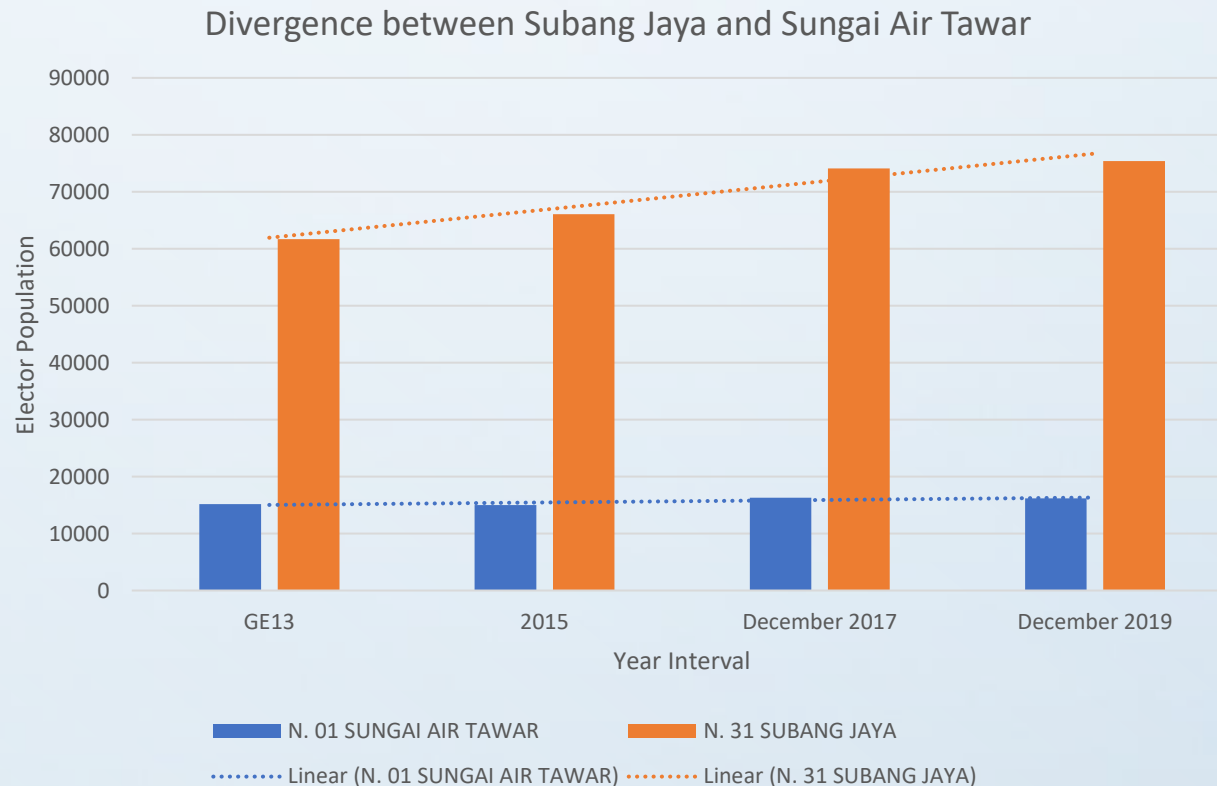


The purpose of the Redelineation is to ensure compliance with 13th Schedule.

- Why different electors of Klang Parliamentary Seat have different voting value?
- Are Voters of Pelabuhan Kelang more important than those in heart of Klang?

13th Schedule Clause 2 (c)

Aggravated Malapportionment



DUN Subang Jaya ought to be divided for redelineation. Instead, it absorbed new voters thanks to redelineation. This widened the gap between Subang Jaya (largest in Selangor) and Sungai Air Tawar (smallest in Selangor)

Source: EC Malaysia, Tindak Malaysia

13th Schedule Clause 2 (d)

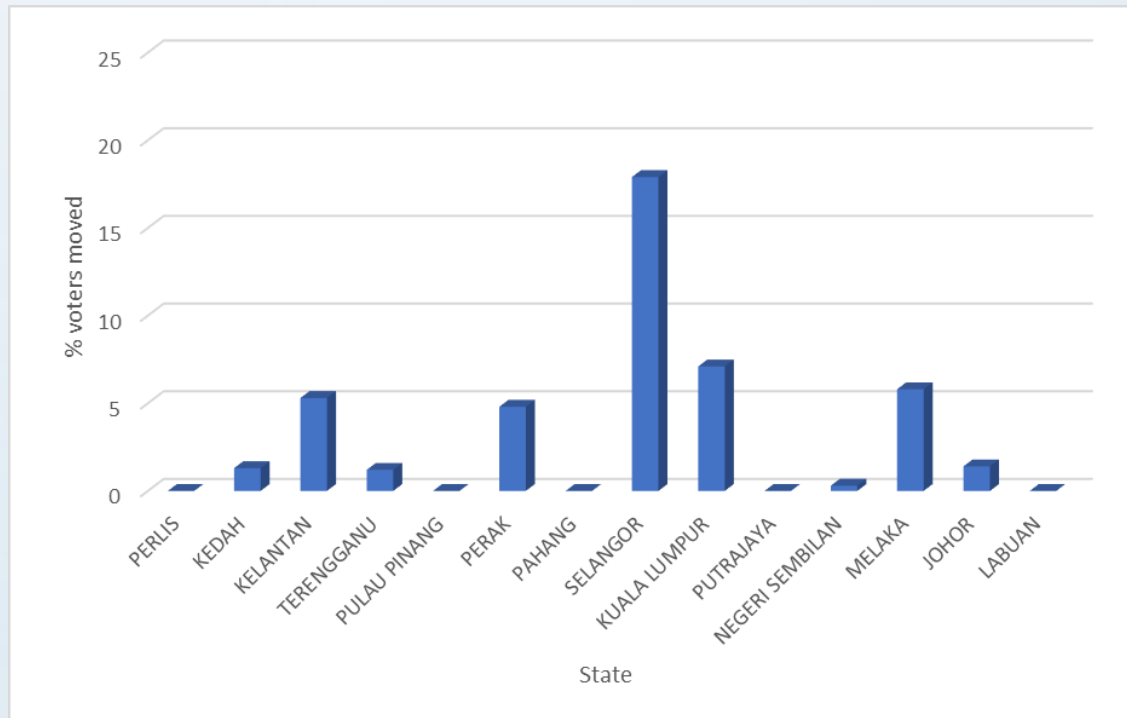
- 2(d) – *“regard ought to be had to the inconveniences attendant on alterations of constituencies, and to the maintenance of local ties;”*
- **Meaning**: Preservation of Local ties shall include avoiding unnecessary break up of local communities. Consider following district, local authority or Bahagian Boundaries. EC report also mentioned that every constituency doesn't have to be under one local authority (*danger*) for their definition of local ties

13th Schedule Clause 2 (d)

- Why Honour this Clause 2(d)?
 - In the absence of elected local governments, MPs and ADUNs are the middleman between voters and local governments for local issues. To ensure effectiveness (for now) of communication on this matters, a DUN should be within one local authority and parliamentary seat should not exceed two local authorities
 - Prevention of occurrence of political and racial gerrymandering

13th Schedule Clause 2 (d)

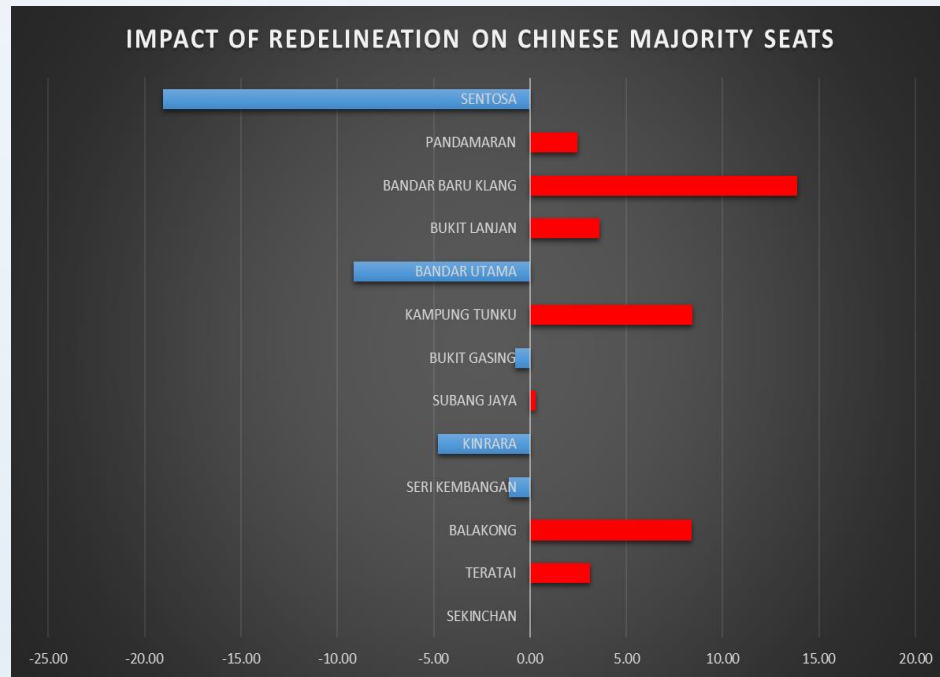
- When there is a violation of Clause 2(c), it gives birth to **gerrymandering**. Gerrymandering manipulates the boundaries an electoral constituency so as to favour one party or class



Source: EC Malaysia, Tindak Malaysia

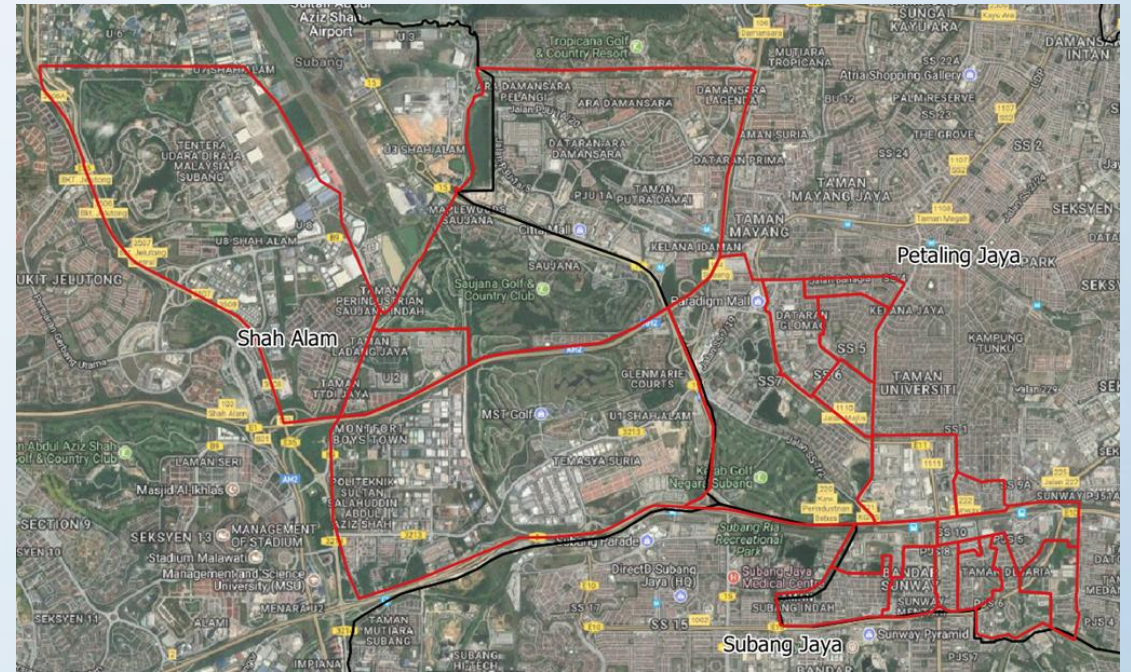
Selangor witnessed the highest proportion of voters being moved around (within the state) among all the states of Peninsular Malaysia. This was attributed to significant gerrymandering and malapportionment in Selangor

13th Schedule Clause 2 (d)



Racial Gerrymandering

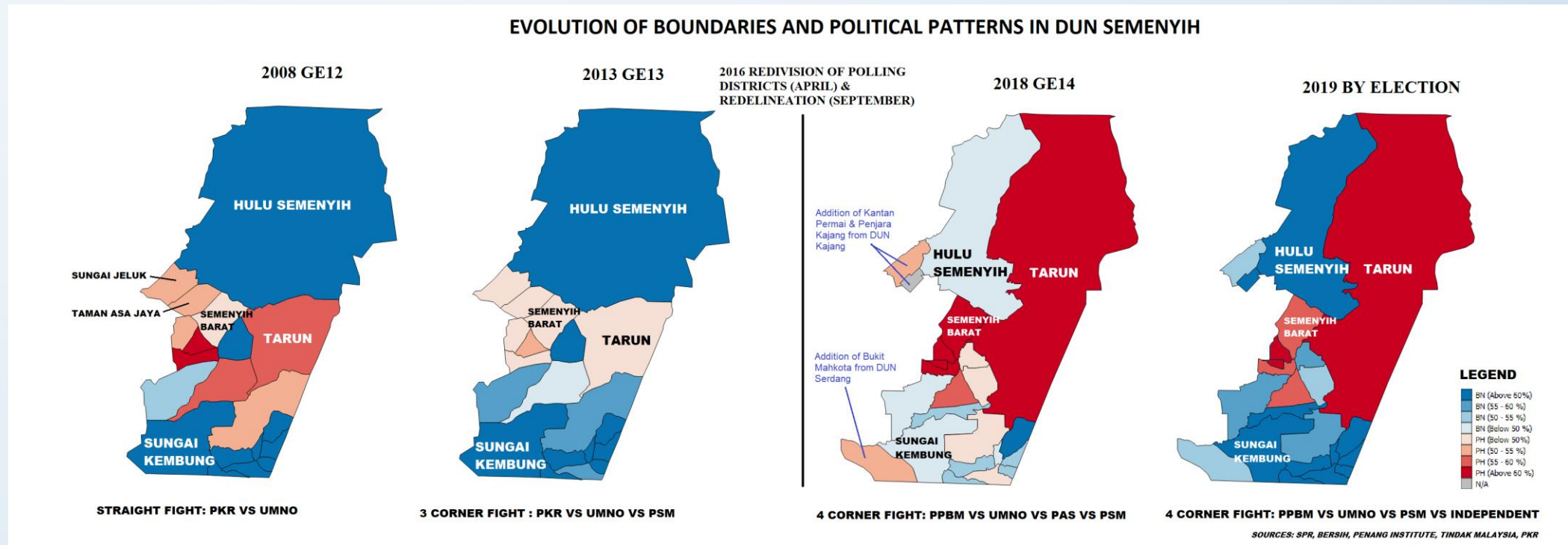
Racial reengineering of constituencies from Mixed or one Ethnic group to another in Selangor



Wilful violation of Local Ties

DUN Seri Setia is deliberately drawn to include polling districts in Shah Alam though population weight is in Petaling Jaya. Red Boundaries are polling district boundaries. Black Boundaries are Council Boundaries

13th Schedule Clause 2 (d)



Political Gerrymandering

Deliberate Excision of Sungai Jeluk and Taman Asa Jaya from Semenyih and addition of Kantan Permai, Bukit Mahkota and Penjara Kajang into Semenyih. Semenyih is within one local authority but movements of polling districts may have taken account of political preferences

Conclusion

- 13th Schedule (2) is the guiding principles for redelineation in Malaysia
- The aim of the redelineation is to ensure compliances with 13th Schedule. No constituencies or states should be exempted
- Only 13th Schedule (2) (a) is honoured
- Schedule 2 (b) needs more focus considering Undi18 and COVID
- Schedule 2 (c) must be respected, and weightage excuse should be challenged
- Schedule 2 (d) must be honoured as electoral boundaries should not cause undue divisions in society



Sources/Additional Readings

- http://www.bersih.org/ge14-electoral-reforms-memo/#_Toc480554789
- <http://www.thenutgraph.com/uncommon-sense-with-wong-chin-huat-constituency-redelineation-and-citizen-vigilance/>
- <https://newnaratif.com/research/malaysias-election-rigged/>
- <https://thol.academia.edu/ChinHuatWong%E9%BB%84%E8%BF%9B%E5%8F%91/Constituency-Redelineation---Malaya-and-Sabah-2016>
- https://www.malaysianbar.org.my/cms/upload_files/document/Guide%20on%20Redelineation%20of%20Electoral%20Boundaries.pdf