

Hard Evidence on Electoral Commission  
Sustaining and Worsening Malapportionment:  
The States of Malaya in the 2016 Recommendations

by

Dr Wong Chin Huat

Dr Toh Kin Woon

Yeong Pey Jung

Nidhal Mujahid

Ooi Kok Hin

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## 1. CONSTITUTIONALITY: Delimitation Recommendations in Compliance with Sub-section 2(c)

While the process of delimitation review is regulated by the 13<sup>th</sup> Schedule of the Federal Constitution, the power of the Election Commission (EC) to commence a delimitation review in normal circumstance is provided by Article 113(2), which reads:

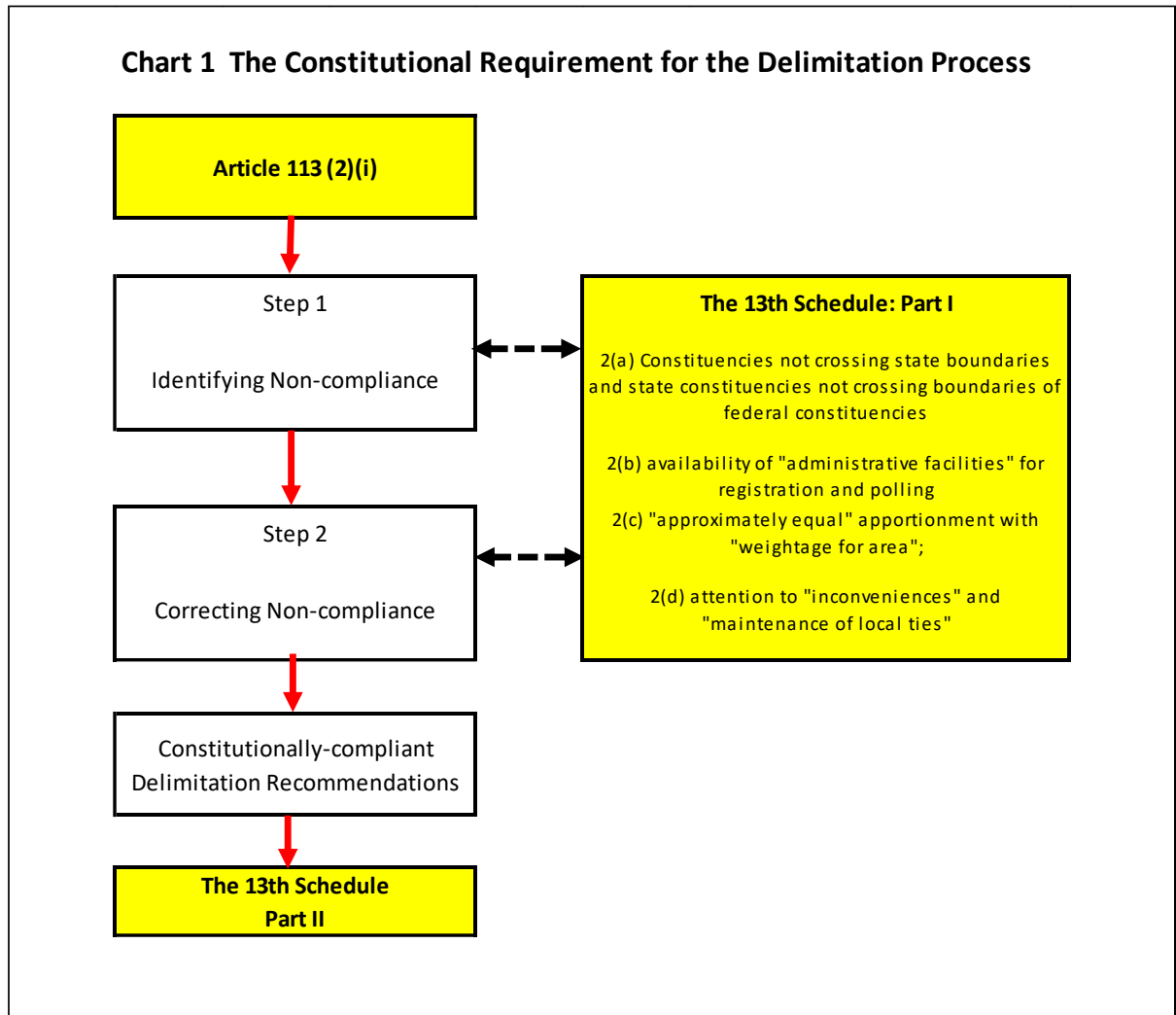
- (i) *Subject to paragraph (ii), the Election Commission shall, from time to time, as they deem necessary, review the division of the Federation and the States into constituencies and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule; and the reviews of constituencies for the purpose of elections to the Legislative Assemblies shall be undertaken at the same time as the reviews of constituencies for the purpose of elections to the House of Representatives.*
- (ii) *There shall be an interval of not less than eight years between the date of completion of one review, and the date of commencement of the next review, under this Clause.*
- (iii) *A review under paragraph (i) shall be completed within a period of not more than two years from the date of its commencement.*

The compliance with the 13<sup>th</sup> Schedule refers mainly to its Section 2 in Part I, which reads:

*The following principles shall as far as possible be taken into account in dividing any unit of review into constituencies pursuant to the provisions of Articles 116 and 117—*

- (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;*
- (b) regard ought to be had to the administrative facilities available within the constituencies for the establishment of the necessary registration and polling machines;*
- (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;*
- (d) regard ought to be had to the inconveniences attendant on alterations of constituencies, and to the maintenance of local ties.*

Reading the two provisions together, it is reasonable to deduce that the preparation of the EC's initial recommendations before it starts the public process as per the Schedule's Part II should consist of two steps: (a) identifying instances of non-compliance; (b) proposing boundary changes to correct or reduce such instances of non-compliance. (Chart 1)



It is important to note that the four requirements in Section 2 may be competing and hence the EC's task is to propose a solution that best meets the competing requirements in balance. Of the four requirements, sub-sections 2(c) and 2(d) which respectively demand "approximately equal" apportionment with "a measure of weightage for area" and attention paid to "inconveniences" and "maintenance of local ties" are the normal sites of contention.

While the current version of sub-section 2(c) introduced in 1973 does not quantitatively define the acceptable range of what would be "approximately equal", caps were provided previously. In 1962, it reads

*(c) the number of electors within each constituency 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.*<sup>1</sup>

Mathematically, this meant a maximum deviation of 1/3 from the average.

From 1957 to 1962, before the insertion of the 13<sup>th</sup> Schedule, the range of deviation was governed by Article 116(4) which reads:

*(4) Each state shall be divided into constituencies in such manner that each constituency contains a number of electors nearly equal to the electoral quota of the State as may be after making due allowance for the distribution of the different communities and for differences in density of population and the means of communication, but the allowance to made shall not increase or reduce the number of electors in any constituency to a number differing from the electoral quota by more than fifteen per cent.*

Here the permissible deviation limits were plus minus 15%.

This report shall adopt in its colour code plus minus 15% and 33.33% as the maximum limits for malapportionment in achieving “approximately equal” and highlight all recommendations by the EC that exceeds either of these two sets of limits.

Fully conscious that the delimitation process is to weight different and competitive demands, this report accepts the possibility that significant departure from “approximately equal’ apportionment may still be constitutional if this is to prevent greater non-compliance with other provisions under Section 2, including “a measure of weightage for area” under sub-section 2(c).

This underlines the necessity of the EC revealing its grounds for recommendations. It is not reasonable to expect members of the public to second guess the EC’s considerations and give it the benefits of doubt. Only with the EC revealing its grounds for its recommendations, the public may assess the constitutionality of these recommendations.

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<sup>1</sup> After the formation of Malaysia in 1963, the phrase “throughout the unit of review” was added after “... each constituency”. It meant that deviations are to be compared within each unit of review: States of Malaya, Sabah and Sarawak.

## 2. METHODOLOGY: Hypothetical Examples of Constitutionally-Compliant and Constitutionally-Non-Compliant Recommendations with Regards to Sub-section 2(c)

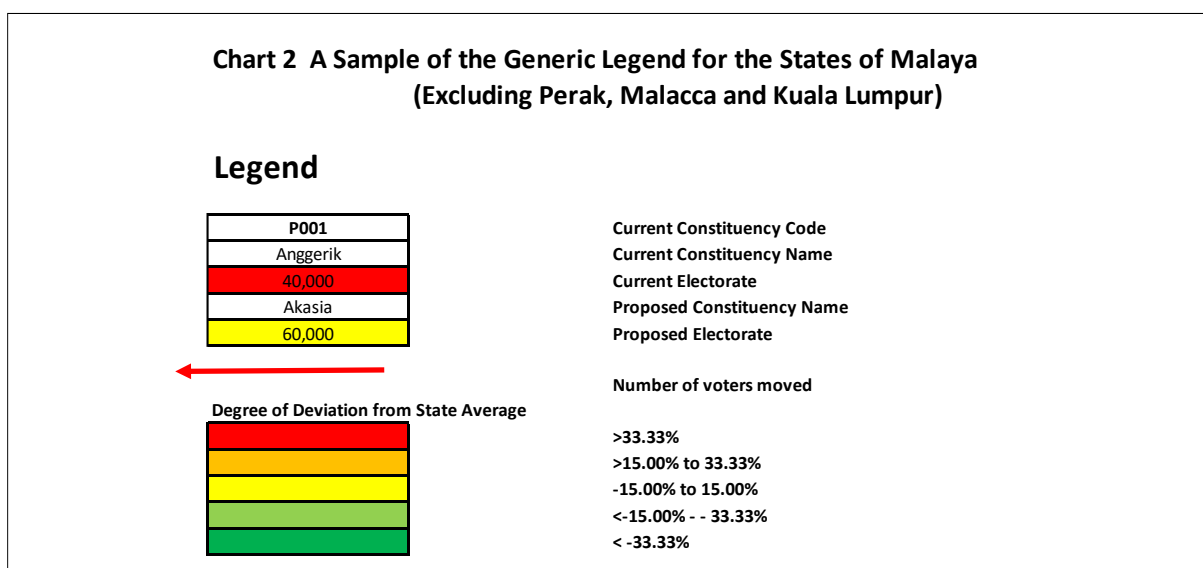
To begin with, we shall introduce the common legend for all the charts (except for Perak, Malacca and Kuala Lumpur) in the report, where each constituency is represented by a 5-cell box which shows:

- Constituency code
- Current Constituency Name
- Current Electorate
- Proposed Constituency Name
- Proposed Electorate

The electorate cells are then coloured to indicate compliance or non-compliance of sub-section 2(c):

- Red – grave under-representation,
- Orange – moderate under-representation
- Yellow – approximately equal apportionment
- Light green – moderate over-representation
- Dark green – grave over-representation

Movement of voters are shown by red arrows. A sample of the generic legend for the states of Malaya except Perak, Malacca and Kuala Lumpur is shown in Chart 2. For Perak and Malacca, because the EC recommended code change for a substantial number of constituencies, each constituency is represented by a 6-cell box so that both the current and proposed constituency code can be shown. For Kuala Lumpur which is 100% urban and has no reason to apply “area weightage”, the more stringent standards of 15% and 10% are used.



## 2.1 Hypothetical Example of Recommendations in Compliance with Sub-section 2(c) (without Seat Increase)

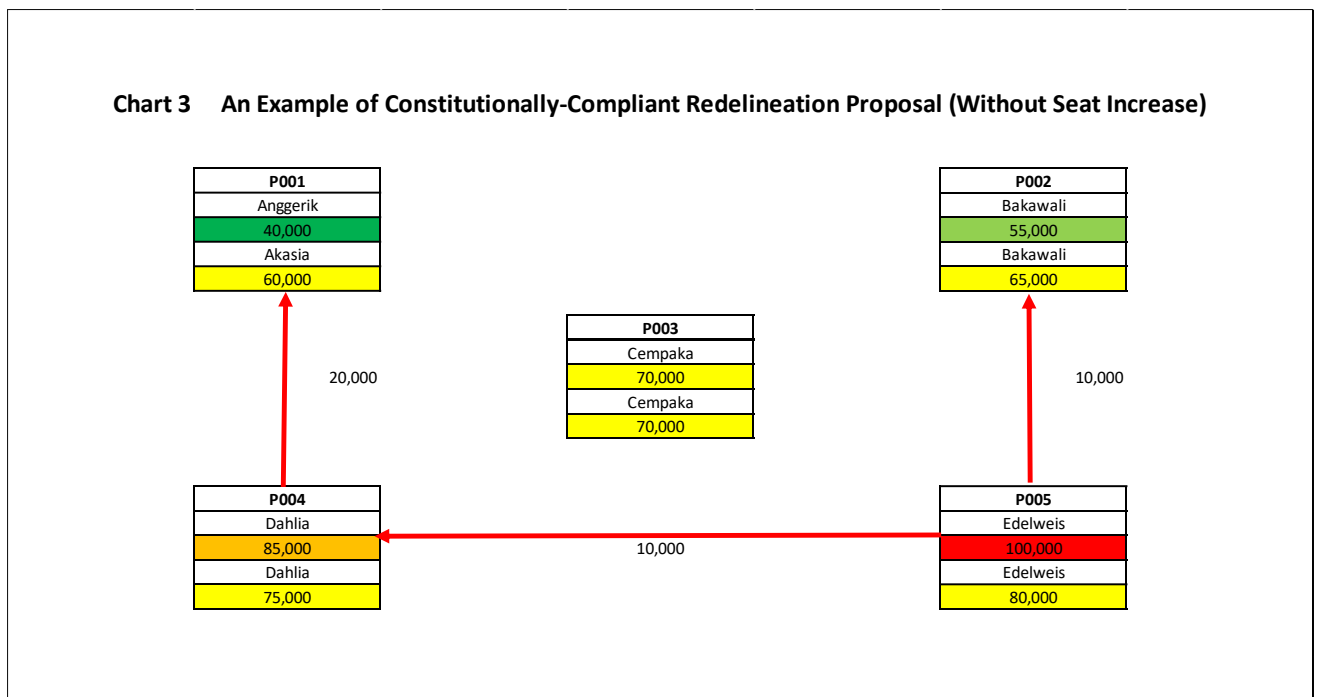
In this hypothetical example, the status quo demonstrates great disparity with two constituencies deviating from the average by more than 33.33%, two more constituencies deviating from the average by 15% but less than 33.33%. The largest constituency P005 Edelweis has many as 100,000 voters (marked in red) while the smallest P001 Anggerik has only 40,000 voters (marked in dark green), yielding a maximum-to-minimum ratio of 2.5.

After the recommendations, all five constituencies deviate from the average only by less than 15% (marked in yellow). The maximum-to-minimum ratio of 1.33, with 80,000 for P005 Edelweis and 60,000 for P001 Akasia. (Table 1)

This hypothetical recommendation is compliant with sub-section 3(c) because it achieves “approximately equal” apportionment. When the movement of voters in the recommendations is mapped out (represented by the red arrows), we can see that voters will be moved from the over-crowded P005 Edelweiss and P004 Dahlia to ultimately P001 Anggerik (renamed as Akasia) and P002 Bakawali. Its constitutionality is clearly shown by the change of colour code for the constituencies, from red (severely under-represented), orange (moderately under-represented), light green (moderately over-represented) and dark green (severely over-represented) to all yellow (near average). (Chart 3)

**Table 1 A Hypothetical Example of Constitutionally-Compliant Voter Movement across Constituencies**

Constituency Code	Pre-Recommendations				Post-Recommendations			
	Old Name	Electorate	% of average	deviation from average	New Name	Electorate	% of average	deviation from average
P001	Anggerik	40,000	57.14%	-42.86%	Akasia	60,000	85.71%	-14.29%
P002	Bakawali	55,000	78.57%	-21.43%	Bakawali	65,000	92.86%	-7.14%
P003	Cempaka	70,000	100.00%	0.00%	Cempaka	70,000	100.00%	0.00%
P004	Dahlia	85,000	121.43%	21.43%	Dahlia	75,000	107.14%	7.14%
P005	Edelweis	100,000	142.86%	42.86%	Edelweis	80,000	114.29%	14.29%
	Total	350,000			Total	350,000		
	Average	70,000			Average	70,000		





## 2.2 Hypothetical Example of Recommendations in Non-Compliance with Sub-section 2(c) (without Seat Increase)

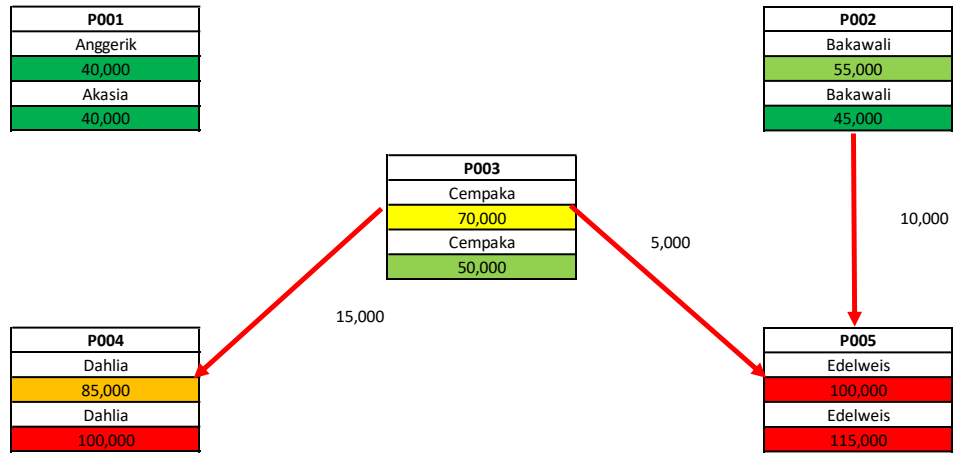
This hypothetical example has the same status quo as the one in 2.1, but the recommendations will make the two largest constituencies larger, the smaller constituencies smaller and leave the smallest constituency untouched. Following these recommendations, four out of the five constituencies will deviate from the average by more than 33.33% with the last one's deviation nearing 33.33% too. As the largest P005 Edelweiss increasing its electorate from 100,000 (red) to 115,000 (red) while the electorate of the smallest P001 Akasia remains at 40,000 (dark green), the maximum-to-minimum ratio will rise from 2.5 to 2.875. (Table 2)

When the movement of voters is mapped out (represented by the red arrows), the flaws of the recommendations become obvious. Voters are to be moved from undersized P002 Bakawali (light green) and average-sized P003 Cempaka (yellow) to oversized P005 Edelweiss (red) and P004 Dahlia (orange). The unconstitutionality is clearly shown by the change of colour code for the constituencies, from light green (moderately over-represented) to dark green (severely over-represented), from yellow (near average) to light green (moderately over-represented) and from orange (moderately under-represented) to red (severely under-represented). (Chart 4)

**Table 2 A Hypothetical Example of Constitutionally-Non-Compliant Voter Movement across Constituencies**

Constituency Code	Pre-Recommendations				Post-Recommendations			
	Old Name	Electorate	% of average	deviation from average	New Name	Electorate	% of average	deviation from average
P001	Anggerik	40,000	57.14%	-42.86%	Akasia	40,000	57.14%	-42.86%
P002	Bakawali	55,000	78.57%	-21.43%	Bakawali	45,000	64.29%	-35.71%
P003	Cempaka	70,000	100.00%	0.00%	Cempaka	50,000	71.43%	-28.57%
P004	Dahlia	85,000	121.43%	21.43%	Dahlia	100,000	142.86%	42.86%
P005	Edelweis	100,000	142.86%	42.86%	Edelweis	115,000	164.29%	64.29%
	Total	350,000			Total	350,000		
	Average	70,000			Average	70,000		

**Chart 4 An Example of Constitutionally-Non-Compliant Redelineation Proposal (Without Seat Increase)**



### 3. FINDINGS: Constitutional Non-Compliance of the EC's Recommendations for the States of Malaya with Regards to Sub-section 2(c)

#### 3.1 Constitutionally Non-Compliant Movement of Voters

The methodology above has been applied to examine the constitutional compliance of the EC's Recommendations published on September 15, 2016 with regards to Sub-section 2(c) for the 164 Parliamentary Constituencies and 445 state constituencies in the States of Malaya, where there is no seat increase. Federal Territories of Putrajaya and Labuan are not analysed as they each have only one parliamentary constituency and no state constituencies.

The movements of voters are established by combing the electorate sizes by polling districts provided in two sets of data provided together in the EC's recommendations:

- *“Daftar Pemilih Yang Diguna Pakai Untuk Kajian Semula Persempadanan Bahagian-bahagian Pilihan Raya Persekutuan Dan Negeri Di Dalam Negeri-negeri Tanah Melayu Sebagaimana Dalam Notis Persempadanan Bertarikh 15 September 2016”*, which provides the current distribution of voters by constituencies and polling districts;
- *“Syor-Syor Yang Dicapangkan Bagi Bahagian-Bahagian Pilihan Raya Persekutuan Bagi Wilayah Persekutuan Kuala Lumpur Sebagaimana Yang Telah Dikaji Semula Oleh Suruhanjaya Pilihan Raya Dalam Tahun 2016”* which provides the proposed distribution of voters by constituencies and polling districts.

The comprehensive set of charts showing movements of voters for all the 12 states and territory can be downloaded at <http://penanginstitute.org/v3/files/malapportionment/Movement-of-Voters-For-Malayan-States-Appendix-to-Hard-Evidence-20170220.xlsx>.

In its recommendations for the states, the EC declared that 161 parliamentary constituencies are completely excluded from delimitation for both parliamentary and state constituencies, of which 151 are from the states of Malaya.

From the charts on movement of voters, we gather a more accurate picture on the extensiveness of exclusion in the EC's delimitation proposal, as shown in Table 3.

**Table 3 Parliamentary and State Constituencies Excluded from the Election Commission’s Delimitation Proposal, by State**

State	Number of Parliamentary constituencies completely excluded, as per EC’s declaration	Parliamentary Constituencies			State Constituencies		
		Total in the State	Excluded from Delimitation Proposal	% of Exclusion	Total in the State	Excluded from Delimitation Proposal	% of Exclusion
Perlis	3	3	3	100.00%	15	15	100.00%
Kedah	8	15	10	66.67%	36	23	63.89%
Kelantan	2	14	4	28.57%	45	15	33.33%
Terengganu	0	8	3	37.50%	32	14	43.75%
Penang	11	13	13	100.00%	40	40	100.00%
Perak	7	24	9	37.50%	59	21	35.59%
Pahang	8	14	10	71.43%	42	29	69.05%
Selangor	4	22	5	22.73%	56	10	17.86%
Kuala Lumpur	0	11	0	0.00%	NA	NA	NA
Negeri Sembilan	2	8	4	50.00%	36	22	61.11%
Malacca	1	6	3	50.00%	28	9	32.14%
Johor	5	26	11	42.31%	56	15	26.79%
Total	51	164	75	45.73%	445	213	47.87%

It is shocking that nearly half of the parliamentary constituencies (45.73%) and state constituencies (47.87%) are excluded from the delimitation process. Both Perlis and Penang<sup>2</sup> are 100% excluded. While all parliamentary constituencies in Perlis have “approximately equal” electorate sizes, the same cannot be said of most constituencies in Penang and other states. To what extent are these instances of exclusion constitutionally compliant? Meanwhile, even for the remaining 55.27% of parliamentary constituencies and 52.13% of state constituencies, to what extent are the EC’s recommendations constitutionally compliant?

We highlight some of the worst instances of non-compliance in Charts 5-11, adapted from the full analysis. The EC must offer its explanations to the public for causing such non-compliance.

Chart 5 shows some of the state constituencies in Penang. As the entire state of Penang is excluded from the EC’s recommendations, this is indicated by the absence of any red arrows. As a result, two neighbouring constituencies -- N34 Paya Terubong (41,707 voters, marked in red) and N23 Air Putih (12,752 voters, marked in dark green) -- are left unrectified despite the grave disparity that the former’s electorate is 3 times the latter’s. Similarly, the excessive over-population of N35 Batu Uban (29,541 voters) and N37 Batu Maung (31,050

<sup>2</sup> According to the EC, P041 Kepala Batas and P053 Balik Pulau are not excluded from the delimitation process but we find no evidence of boundary changes for these two constituencies, whether at the parliamentary or state constituency level.

voters) – both marked in red -- is also left uncorrected. The exclusion is clearly constitutionally non-compliant.

In northwest Selangor, illustrated in Chart 6, the EC chooses to not correct the non-compliance of four excessively undersized parliamentary constituencies. P092 Sabak Bernam (37,126 voters) and P093 Sungai Besar (42,833 voters) were completely untouched. With the EC recommendations, P096 Kuala Selangor will lose 3,117 voters to P107 Subang (to be renamed Sungai Buloh) and 81 voters to P095 Tanjung Karang, making its under-sized electorate even smaller. These four parliamentary constituencies will remain smaller than the Selangor average (94,469 voters) by more than 33.33%, thus all marked in dark green. This is in sharp contrast with their eastern neighbour P094 Hulu Selangor, which has as many as 86,599 voters (only 8.37% below average, hence marked in yellow).

Elsewhere in Selangor, non-compliance with “approximately equal” apportionment is worsened in some cases and transferred across constituencies in some other (Chart 7). Currently, out of the four parliamentary constituencies in and around Petaling Jaya, P104 Kelana Jaya and P106 Petaling Jaya Utara (marked in yellow) have electorates of just about the right size, which do not deviate from the state average by more than 15%. P105 Petaling Jaya Selatan (marked in light green) is moderately over-represented, smaller than the average by 17.01% while P107 Subang (marked in red) is severely under-represented, exceeding the state average by 37.45%. With the EC recommendations, three of them – P104 Subang (currently Kelana Jaya), P105 Petaling Jaya (currently Petaling Jaya Selatan) and P106 Damansara (currently Petaling Jaya Utara) will exceed the state average by more than 33.33% (marked in red). For P106 Damansara, the excess would be as high as 59.25%. P107 Sungai Buloh (currently Subang) will be reversed from grave under-representation (marked in red) to moderate over-representation (marked in light green). Similarly, P109 Kapar (100,546 voters) will be made less crowded with 45,246 voters being transferred out of the constituency, but P110 Klang (141,275 voters) will receive those voters and become excessively under-represented. This is illustrated by the trading of yellow and red colours between the two constituencies. Clearly, the EC recommendations have failed to reduce let alone eliminate constitutional non-compliance in this example.

Other severe cases can be detected in Johor, as illustrated in Chart 8. EC chooses to not correct the non-compliance of three excessively over-represented parliamentary constituencies and eight excessively under-represented parliamentary constituencies. Both marked in dark green, P153 Sembrong (41,629 voters) and P155 Tenggara (40,670 voters) will be left untouched. And only 526 voters will be transferred from the excessively under-represented P152 Kluang (88,212 voters) to P151 Simpang Renggam (41,052 voters), sustaining their colours in red and dark green. The EC should have corrected this grave disparity between two neighbouring constituencies in accordance to their duty specified in the Constitution. In one blatant case of worsening non-compliance, the EC chose to move 1,265 voters from moderately over-represented P149 Sri Gading (45,451 voters, marked in light green) into the gravely under-represented P150 Batu Pahat (91,328 voters, marked in red). The decision makes P150 Batu Pahat even more under-represented. In Johor, the size

of some excessively under-represented constituencies is almost double the size of their neighbouring over-represented constituencies.

The practice of non-compliance in Johor's state constituencies is exemplified in Chart 9. N41 Puteri Wangsa (48,953 voters), N40 Tiram (50,639 voters), N47 Kempas (40,170 voters) and N45 Sulang (45,026 voters) are all excessively under-represented (hence marked in red) and yet untouched in the delimitation exercise. EC proposes to move voters between N42 Johor Jaya (59,041 voters), N43 Permas (49,115 voters) N44 Tanjong Puteri (53,325 voters) and N46 Perling (55,810 voters), but the outcome remains that these state constituencies are still largely under-represented. If EC is to perform its duty as per the constitution, they should consider moving some voters into the neighbouring constituencies of N38 Penawar and N39 Tanjung Surat (marked light green and dark green respectively), which are over-represented.

The same scenario of sustaining and worsening non-compliance can also be seen clearly in the state of Perak. As seen in Chart 10, EC has chosen to transfer voters between the under-represented parliamentary constituencies of P063 Tambun (96,437 voters), P064 Ipoh Timor (89,218 voters) and P071 Gopeng (83,389 voters) (marked red), instead of between them and other constituencies with smaller electorates like P062 Sungai Siput (51,529 voters). If the EC's recommendations are adopted, while voters will be more equally distributed between these three constituencies, the constituencies remained gravely under-represented (still marked red). Their neighbour, P065 Ipoh Barat will have more voters will be moved into the constituency, worsening its under-representation (from orange to red).

Amongst state constituencies in Perak, outlined in Chart 11, non-compliance can be seen in multiple cases such as N23 Manjoi (50,812 voters), N24 Hulu Kinta (45,625 voters) and N25 Canning (31,817 voters), all of which will remain excessively under-represented (marked red). If the recommendations are adopted, the size of their electorates will deviate from the state average by more than 33%, before and after the delimitation process. In the case of N27 Pasir Pinji (33,022 voters), its electorate size is currently constitutionally-compliant. By transferring a huge chunk of voters into the constituency (instead of distributing them across multiple constituencies, especially to the smaller ones), the EC's constitutionally non-compliant recommendation will make the constituency excessively under-represented (more than 33% bigger than the state average).

Finally, in Kuala Lumpur where every constituency is affected by the EC recommendations, a large part of the proposed movements is not justified. While the largest constituencies, P124 Bandar Tun Razak, P115 Batu and P122 Seputeh (to be renamed Sri Petaling), have their electorates slashed, two undersized constituencies P119 Titiwangsa and P118 Setiawangsa are recommended to be made even smaller. Meanwhile, P121 Lembah Pantai which currently has an average-sized electorate will be made under-sized under the recommendations. (See Chart 12)

**Chart 5 Sustaining Non-Compliance amongst State Constituencies in Penang**

N40
Telok Bahang
13,295
Telok Bahang
13,295

N22
Tanjong Bunga
20,126
Tanjong Bunga
20,126

N23
Air Putih
12,752
Air Putih
12,752

N24
Kebun Bunga
21,064
Kebun Bunga
21,064

N34
Paya Terubong
41,707
Paya Terubong
41,707

N33
Air Itam
18,899
Air Itam
18,899

N29
Datuk Keramat
22,034
Datuk Keramat
22,034

N39
Pulau Betong
15,595
Pulau Betong
15,595

N31
Batu Lanchang
26,258
Batu Lanchang
26,258

N38
Bayan Lepas
22,722
Bayan Lepas
22,722

N35
Batu Uban
29,541
Batu Uban
29,541

N37
Batu Maung
31,050
Batu Maung
31,050

N36
Pantai Jerejak
22,321
Pantai Jerejak
22,321

Chart 6

### Sustaining Non-Compliance amongst Parliamentary Constituencies in Northwest Selangor

<b>P092</b>
Sabak Bernam
37,126
Sabak Bernam
37,126

<b>P094</b>
Hulu Selangor
86,599
Hulu Selangor
86,599

<b>P093</b>
Sungai Besar
42,833
Sungai Besar
42,833

<b>P095</b>
Tanjong Karang
42,577
Tanjong Karang
42,658

<b>P096</b>
Kuala Selangor
63,623
Kuala Selangor
60,425

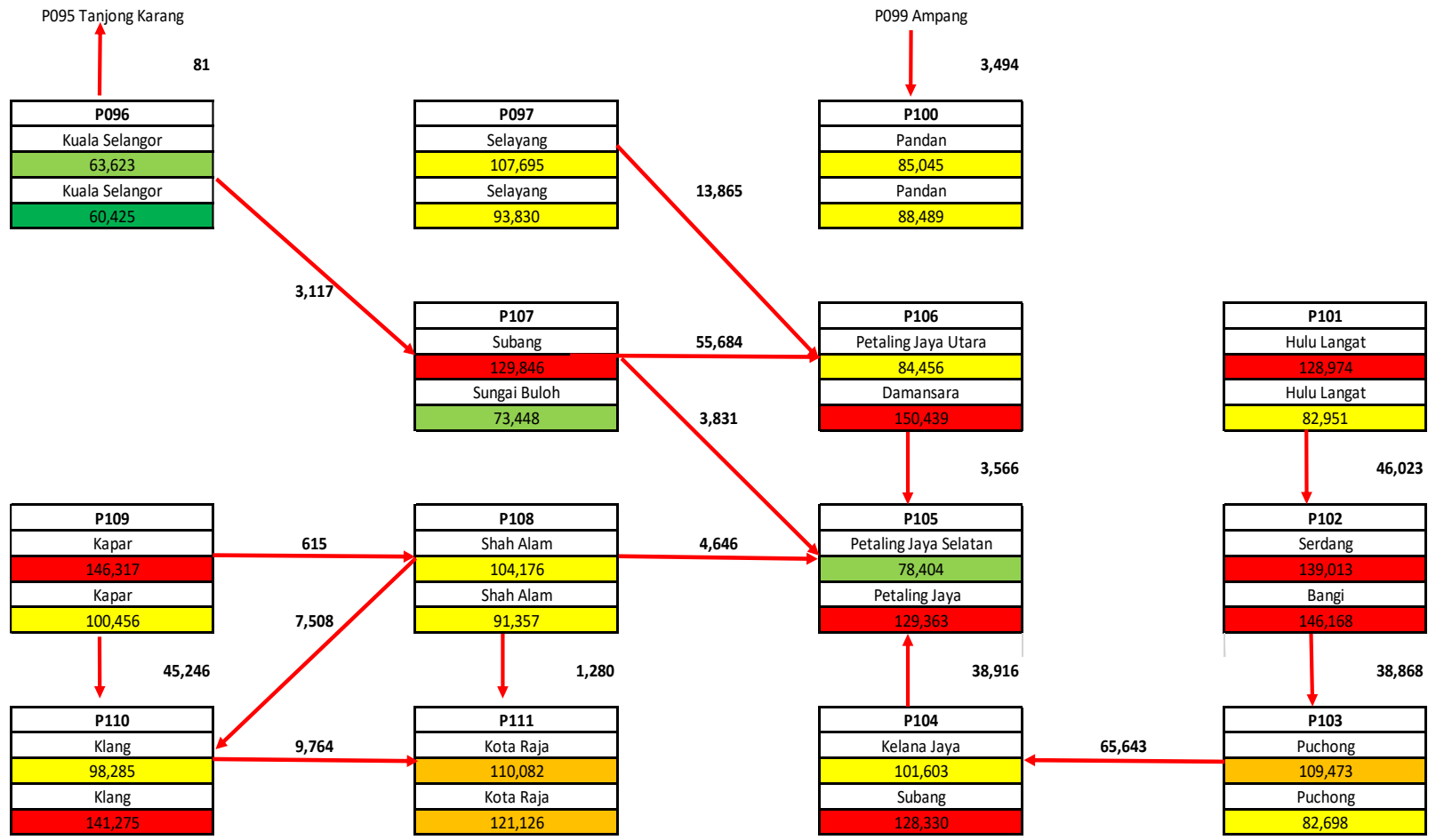
81

3,117

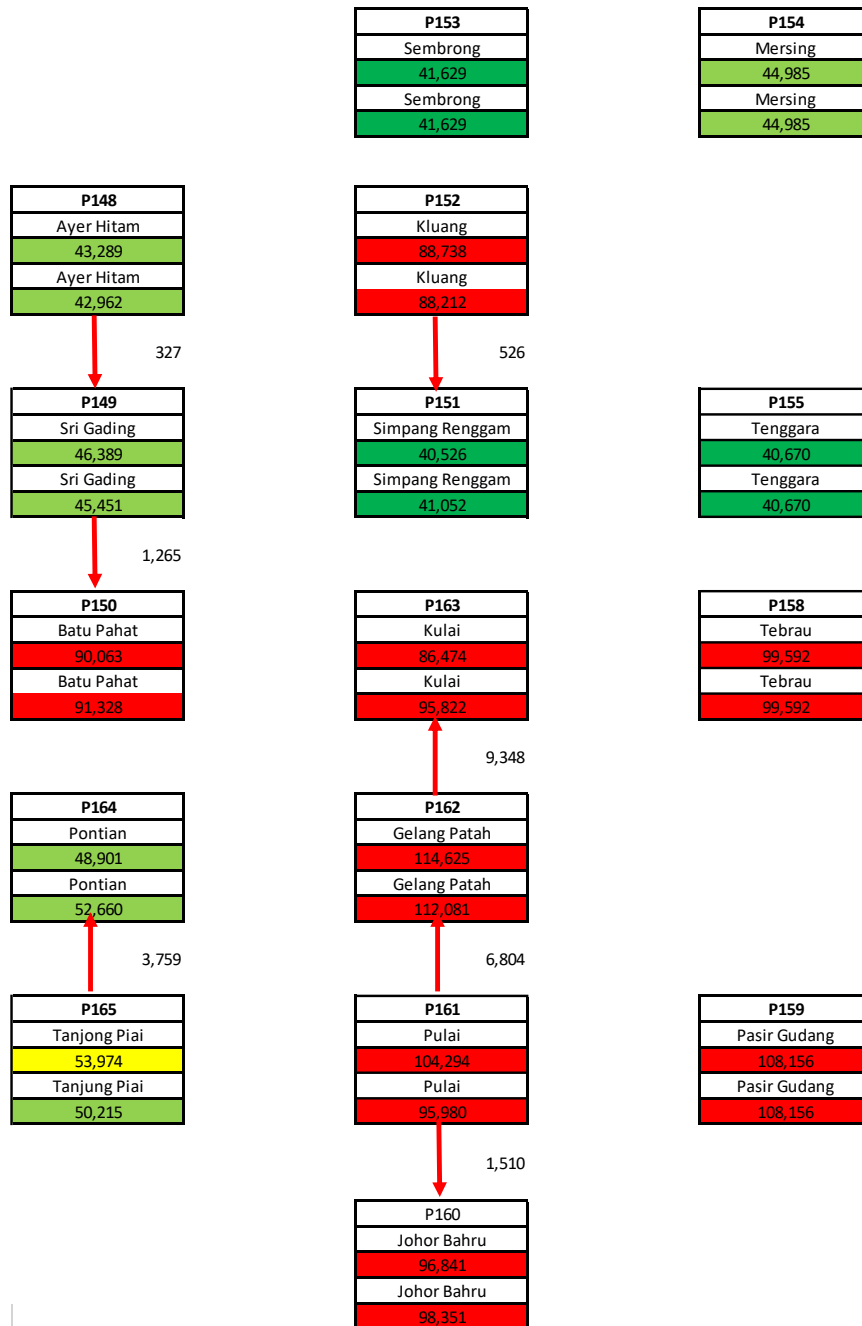
P107 Subang/Sungai Buloh



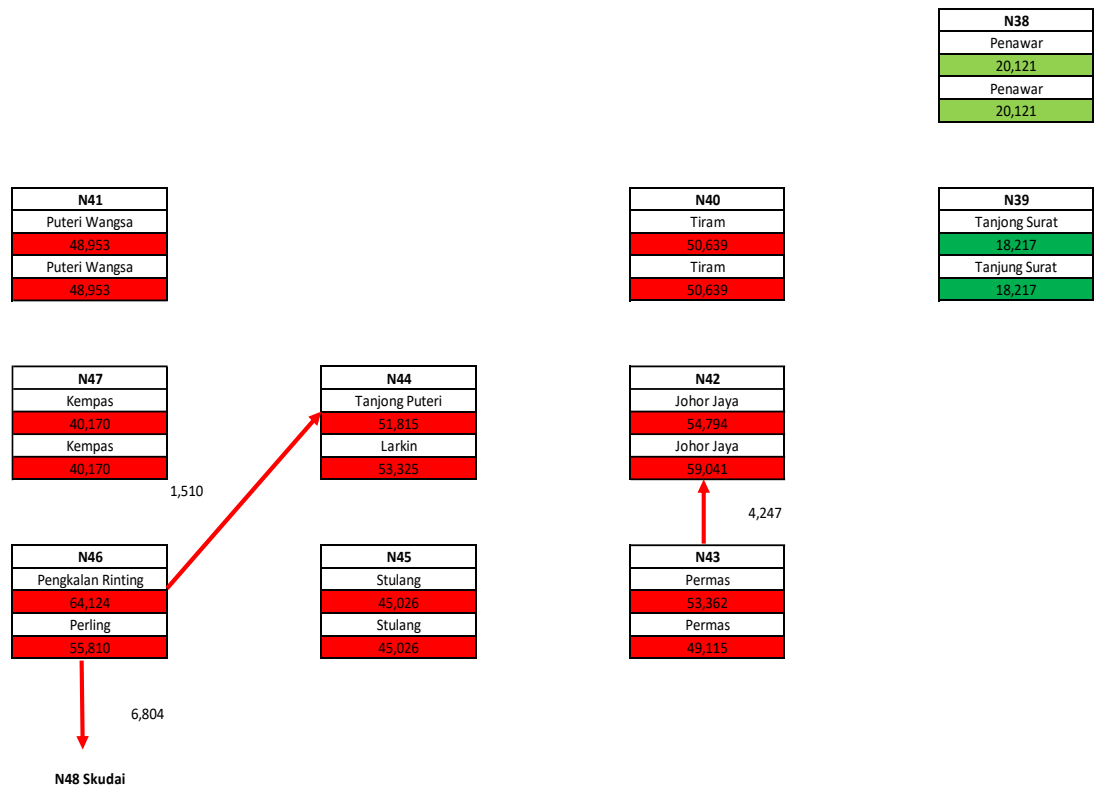
**Chart 7 Worsening Non-Compliance amongst Parliamentary Constituencies in Central Selangor**



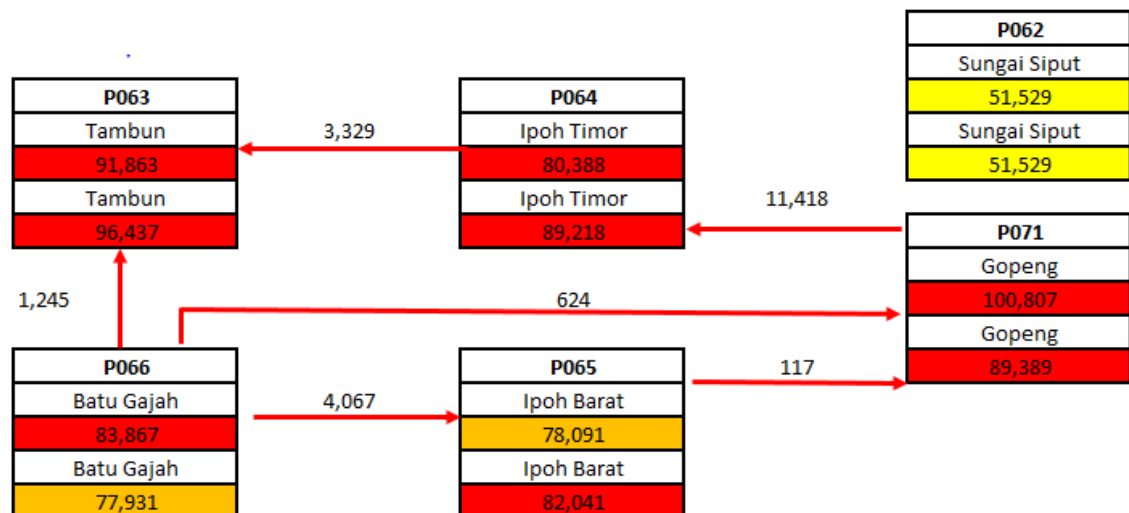
**Chart 8 Sustaining and Worsening Non-Compliance amongst Parliamentary Constituencies in Southern Johor**



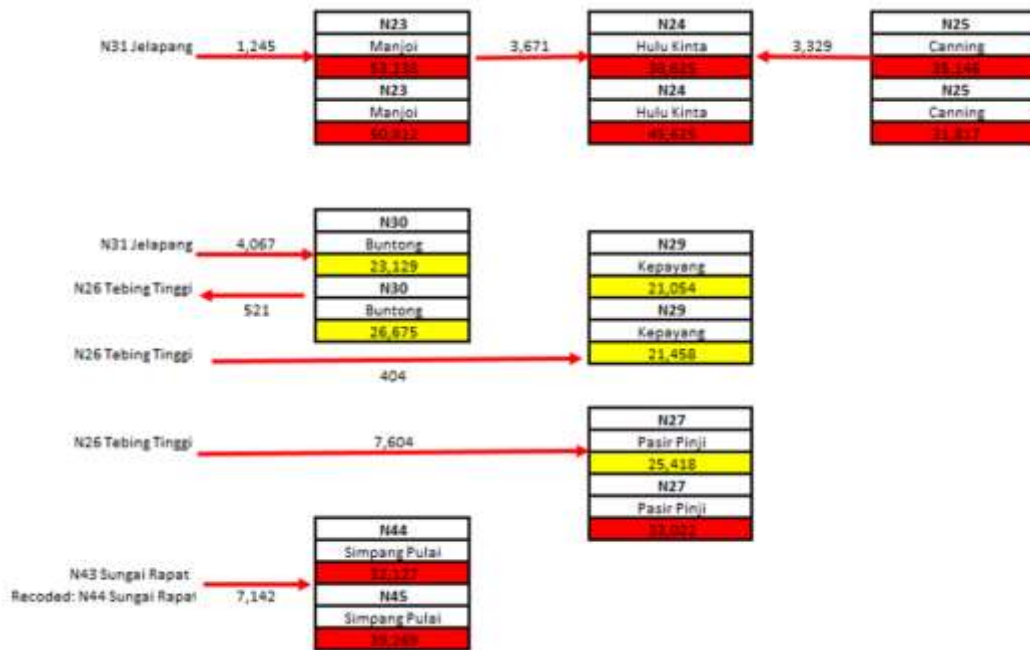
**Chart 9 Sustaining Non-Compliance amongst State Constituencies in Southern Johor**



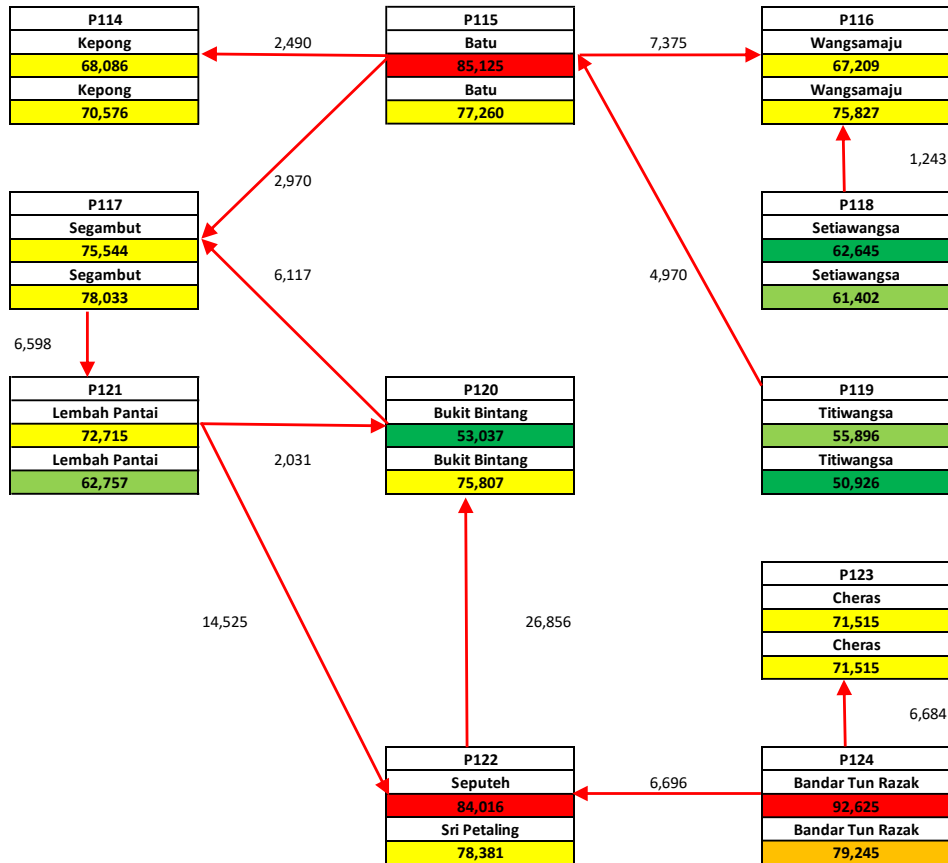
**Chart 10 Sustaining and Worsening Non-Compliance amongst Parliamentary Constituencies in Kinta Valley, Perak**



**Chart 11 Sustaining and Worsening Non-Compliance amongst State Constituencies in Kinta Valley, Perak**



**Chart 12 Sustaining and Worsening Non-Compliance amongst Parliamentary Constituencies in Kuala Lumpur**



### 3.2 36 Parliamentary Constituencies and 96 State Constituencies Where Severe Malapportionment Are Sustained or Worsened

Continuing from Table 3 which shows the extensiveness of exclusion from delimitation, this section will present an assessment of the extensiveness of constitutional non-compliance with sub-section 2(c) of the 13<sup>th</sup> Schedule, whether caused by exclusion or unreasonable movement of voters.

To present a clear and easily comprehensive picture, we focus on four types of most straightforward cases, where the EC's recommendations

- Sustain negative deviation by more than 33.33% (severe over-representation)
- Sustain positive deviation by more than 33.33% (severe under-representation)
- Cause negative deviation by more than 33.33% (severe over-representation) when the current deviation is less than 15% (approximately equal apportionment)
- Cause positive deviation by more than 33.33% (severe under-representation) when the current deviation is less than 15% (approximately equal apportionment)

Here we use the more lenient 1962-1973 standard (deviation from the average by more than 33.33%) instead of the restrictive 1957-1962 standard (deviation from the average by 15%) to capture the strongest cases of non-compliance.

The “victims” are shockingly extensive, affecting 37 parliamentary constituencies and 96 state constituencies. The overview by state are shown in Tables 4 and 5, and the full list of the constituencies in Tables 6 and 7.

It is important to note that out of these 37 parliamentary constituencies, 19 are excluded from the delimitation process. The proportion for state constituencies is even higher, 59 out of 96 or 61%. In fact, all the non-compliance cases in Penang and Negeri Sembilan, and all but one in Pahang are due to exclusion. Unless the EC has a strong justification for such exclusion, it has abdicated its constitutional duty.

**Table 4 Two Patterns of Non-Compliance with Sub-section 2(c) in the Election Commission's Recommendations for Parliamentary Constituencies in the States of Malaya (Excluding Kuala Lumpur) on September 15, 2016**

State	Sustaining negative deviation by more than 33.33% (over-representation)	Sustaining positive deviation by more than 33.33% (under-representation)	Causing negative deviation by more than 33.33% (over-representation)	Causing positive deviation by more than 33.33% (over-representation)
	Pre-Recommendation	Pre-Recommendation	Pre-Recommendation	Pre-Recommendation
	Post-Recommendation	Post-Recommendation	Post-Recommendation	Post-Recommendation
Perlis	0	0	0	0
Kedah	2	2	0	0
Kelantan	2	1	0	0
Terengganu	0	0	0	0
Penang	0	0	0	0
Perak	0	3	0	0
Pahang	2	1	0	0
Selangor	3	1	0	3
Negeri Sembilan	1	1	0	0
Malacca	1	0	0	0
Johor	6	8	0	0
<b>Total</b>	<b>16</b>	<b>18</b>	<b>0</b>	<b>3</b>

**Table 5 Two Patterns of Non-Compliance with Sub-section 2(c) in the Election Commission’s Recommendations for State Constituencies in the States of Malaya (Excluding Kuala Lumpur) on September 15, 2016**

State	Sustaining negative deviation by more than 33.33% (over-representation)	Sustaining positive deviation by more than 33.33% (under-representation)	Causing negative deviation by more than 33.33% (over-representation)	Causing positive deviation by more than 33.33% (over-representation)
	Pre-Recommendation	Pre-Recommendation	Pre-Recommendation	Pre-Recommendation
	Post-Recommendation	Post-Recommendation	Post-Recommendation	Post-Recommendation
Perlis	0	0	0	0
Kedah	1	2	0	0
Kelantan	3	2	0	0
Terengganu	0	2	0	0
Penang	2	5	0	0
Perak	7	5	0	1
Pahang	6	4	0	0
Selangor	10	1	0	4
Negeri Sembilan	6	3	0	0
Malacca	5	3	0	1
Johor	8	14	1	0
<b>Total</b>	<b>48</b>	<b>41</b>	<b>1</b>	<b>6</b>



**Table 6 Non-Compliance with Sub-section 2(c) in the Election Commission's Recommendations for Parliamentary Constituencies in the States of Malaya (Excluding Kuala Lumpur) on September 15, 2016 [\* indicating exclusion]**

State	Constituency	Average Voter Numbers	Current		Proposed	
			Number of Voters	Deviation from Average	Number of Voters	Deviation from Average
Kedah	P004 Langkawi*	69,630	37,645	-45.94%	37,645	-45.94%
	P007 Padang Terap*	69,630	42,877	-38.42%	42,877	-38.42%
	P015 Sungai Petani	69,630	93,684	34.55%	101,829	46.24%
	P016 Baling*	69,630	94,809	36.16%	94,809	36.16%
Kelantan	P019 Tumpat*	67,185	101,318	50.80%	101,318	50.80%
	P030 Jeli	67,185	44,461	-33.82%	43,233	-35.65%
	P032 Gua Musang*	67,185	41,894	-37.64%	41,894	-37.64%
Perak	P063 Tambun	58,647	91,863	56.64%	96,437	64.44%
	P064 Ipoh Timor	58,647	80,388	37.07%	89,218	52.13%
	P071 Gopeng	58,647	100,807	71.89%	89,389	52.42%
Pahang	P078 Cameron Highlands*	52,859	27,892	47.23%	27,892	47.23%
	P079 Lipis*	52,859	32,075	39.32%	32,075	39.32%
	P085 Pekan*	52,859	81,647	-54.46%	81,647	-54.46%
Selangor	P092 Sabak Bernam*	94,469	37,716	-60.70%	37,716	-60.70%
	P093 Sungai Besar*	94,469	42,833	-54.66%	42,833	-54.66%
	P095 Tanjong Karang	94,469	42,577	-54.93%	42,658	-54.84%
	P102 Serdang (RENAMED: P012 Bangi)	94,469	139,013	47.15%	146,168	54.73%
	P104 Kelana Jaya (RENAMED: P104 Subang)	94,469	101,603	7.55%	128,330	35.84%
	P106 Petaling Jaya Utara (RENAMED: P106 Damansara)	94,469	84,456	10.60%	150,439	59.25%
Negeri Sembilan	P110 Klang	94,469	98,285	4.04%	141,275	49.55%
	P126 Jelebu*	69,642	45,719	-34.35%	45,719	-34.35%
	P128 Seremban	69,642	103,615	48.78%	99,752	43.23%
Malacca	P134 Masjid Tanah*	76,108	47,972	-36.97%	47,972	-36.97%
Johor	P141 Sekijang*	63,428	41,896	-33.95%	41,896	-33.95%
	P142 Labis*	63,428	37,568	-40.77%	37,568	-40.77%
	P150 Batu Pahat	63,428	90,063	41.99%	91,328	43.99%
	P151 Simpang Renggam	63,428	40,526	-36.11%	41,052	-35.28%
	P152 Kluang	63,428	88,748	39.92%	88,212	39.07%
	P153 Sembrong*	63,428	41,629	-34.37%	41,629	-34.37%
	P155 Tenggara*	63,428	40,670	-35.88%	40,670	-35.88%
	P157 Pengerang*	63,428	38,338	-39.56%	38,338	-39.56%
	P158 Tebrau*	63,428	99,592	57.02%	99,592	57.02%
	P159 Pasir Gudang*	63,428	108,156	70.52%	108,156	70.52%
	P160 Johor Bahru	63,428	96,841	52.68%	98,351	54.99%
	P161 Pulai	63,428	104,294	64.43%	95,980	51.32%
	P162 Gelang Patah	63,428	114,625	80.72%	112,082	76.71%
	P163 Kulai	63,428	86,474	36.33%	95,822	51.07%

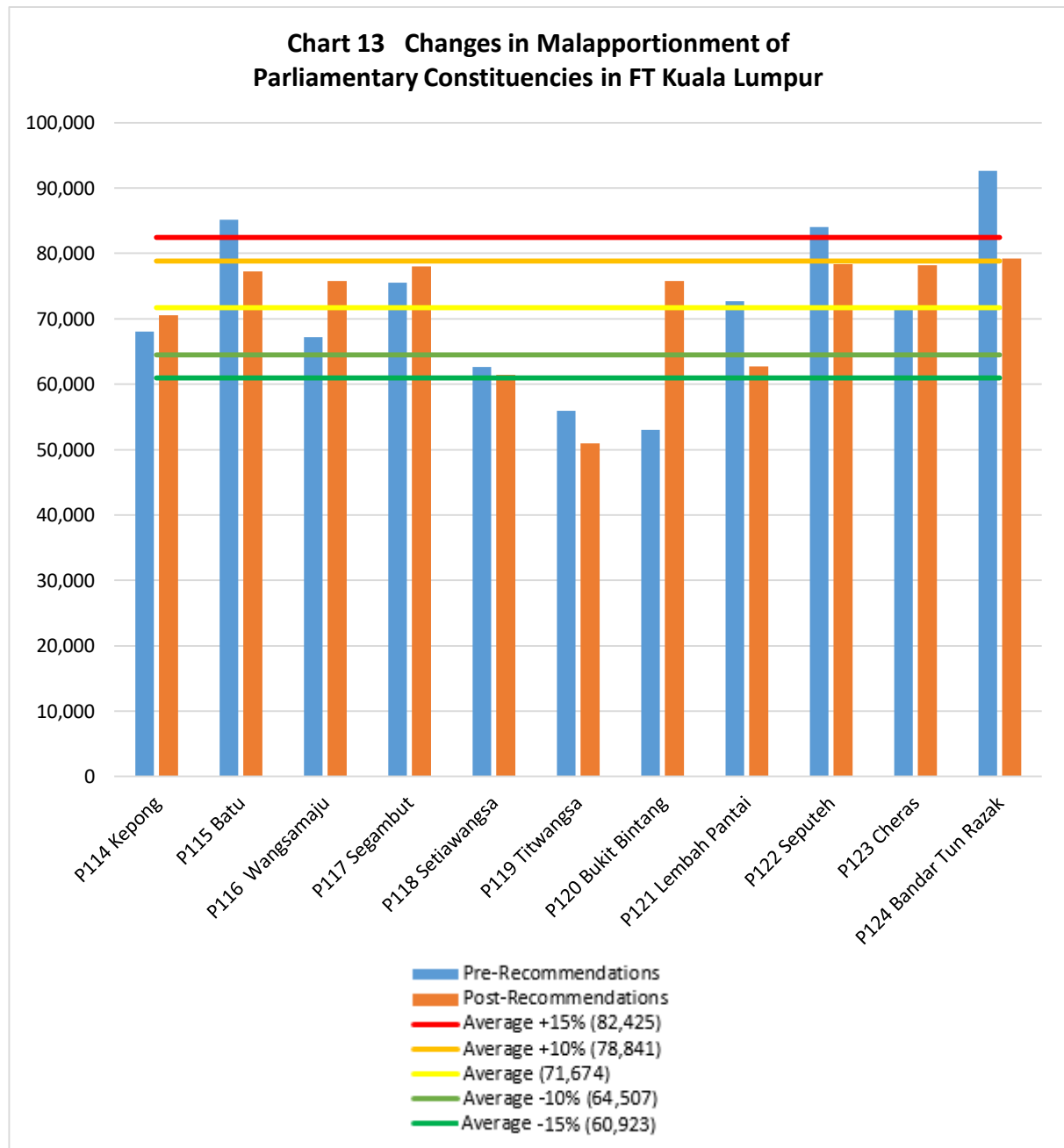
**Table 7 Non-Compliance with Sub-section 2(c) in the Election Commission's Recommendations for State Constituencies in the States of Malaya (Excluding Kuala Lumpur) on September 15, 2016 [\* indicating exclusion]**

State	Constituency	Average Voter Numbers	Current		Proposed	
			Number of Voters	Deviation from Average	Number of Voters	Deviation from Average
Kedah	N02 Kuah*	29,012	18,753	-35.36%	18,753	-35.36%
	N25 Bukit Selambau	29,012	49,799	71.65%	41,654	43.58%
	N34 Lunas	29,012	41,100	41.67%	44,938	54.89%
Kelantan	N08 Tanjong Mas	20,902	28,657	37.10%	29,335	40.35%
	N26 Bukit Panau	20,902	28,951	38.51%	28,951	38.51%
	N38 Kuala Balah*	20,902	11,860	-43.26%	11,860	-43.26%
	N42 Dabong*	20,902	10,881	-47.94%	10,881	-47.94%
	N43 Nenggiri*	20,902	11,960	-42.78%	11,889	-43.12%
Terengganu	N16 Batu Buruk*	20,923	30,115	43.93%	30,115	43.93%
	N31 Cukai	20,923	28,154	34.56%	29,788	42.37%
Penang	N10 Seberang Jaya*	21,694	31,253	44.06%	31,253	44.06%
	N14 Machang Bubuk*	21,694	32,189	48.38%	32,189	48.38%
	N23 Air Putih*	21,694	12,752	-41.22%	12,752	-41.22%
	N34 Paya Terubong*	21,694	41,707	92.25%	41,707	92.25%
	N35 Batu Uban*	21,694	29,541	36.17%	29,541	36.17%
	N37 Batu Maung*	21,694	31,050	43.13%	31,050	43.13%
	N40 Telok Bahang*	21,694	13,295	-38.72%	13,295	-38.72%
Perak	N01 Pengkalan Hulu*	23,856	14,363	-39.79%	14,363	-39.79%
	N04 Kota Tampan*	23,856	11,990	-49.74%	11,990	-49.74%
	N05 Selama*	23,856	15,261	-36.03%	15,261	-36.03%
	N06 Kubu Gajah	23,856	12,450	-47.81%	15,748	-33.99%
	N15 Trong*	23,856	15,253	-45.56%	15,253	-45.56%
	N23 Manjoi	23,856	53,238	123.16%	50,812	112.99%
	N24 Hulu Kinta	23,856	38,625	61.69%	46,625	91.25%
	N25 Canning	23,856	35,146	47.33%	31,817	33.37%
	N27 Pasir Pinji	23,856	25,418	6.35%	33,022	38.42%
	N28 Bercham*	23,856	33,908	42.14%	33,908	42.14%
	N34 Bukit Chandan*	23,856	15,693	-34.22%	15,693	-34.22%
	N38 Belanja* (RECODED: N39 Belanja)	23,856	14,653	-38.69%	14,653	-38.69%
	N44 Simpang Pulai* (RECODED: N45 Simpang Pulai)	23,856	32,127	34.67%	39,269	64.61%
Pahang	N02 Jelai*	17,620	11,160	36.66%	11,160	36.66%
	N04 Cheka*	17,620	11,635	33.97%	11,635	33.97%
	N05 Benta*	17,620	8,175	53.60%	8,175	53.60%
	N12 Beserah*	17,620	33,255	-88.73%	33,255	-88.73%
	N13 Semambu*	17,620	33,365	-89.36%	33,365	-89.36%
	N14 Teruntum*	17,620	23,889	-35.58%	23,889	-35.58%
	N16 Inderapura*	17,620	10,949	37.86%	10,949	37.86%
	N21 Peramu Jaya*	17,620	29,213	-65.79%	29,213	-65.79%
	N27 Jenderak*	17,620	9,656	45.20%	9,656	45.20%
	N28 Kerdau	17,620	10,762	38.82%	9,473	46.24%

Selangor	N01 Sungai Air Tawar*	37,113	15,033	-59.49%	15,033	-59.49%
	N02 Sabak*	37,113	22,093	-40.47%	22,093	-40.47%
	N04 Sekinchan*	37,113	16,108	-56.60%	16,108	-56.60%
	N05 Hulu Bernam*	37,113	20,920	-43.63%	20,920	-43.63%
	N08 Sungai Burong	37,113	22,860	-38.40%	21,615	-41.76%
	N09 Permatang	37,113	19,717	-46.87%	21,043	-43.30%
	N10 Bukit Melawati	37,113	16,406	-55.79%	23,370	-37.03%
	N11 Ijok	37,113	18,706	-49.60%	20,734	-44.13%
	N25 Kajang	37,113	39,218	5.67%	52,041	40.22%
	N30 Kinrara	37,113	34,910	-5.94%	62,271	67.79%
	N31 Subang Jaya	37,113	62,687	68.91%	66,059	78.00%
	N37 Bukit Lanjan	37,113	40,913	10.24%	54,902	47.93%
	N45 Sungai Pinang (RENAMED: N45 Bandar Baru Klang)	37,113	36,939	0.47%	52,754	42.15%
	N54 Tanjong Sepat*	37,113	22,026	-40.65%	22,026	-40.65%
	N56 Sungai Pelek*	37,113	23,989	-35.36%	23,989	-35.36%
Negeri Sembilan	N02 Pertang*	15,476	9,694	-37.36%	9,694	-37.36%
	N04 Klawang*	15,476	9,392	-39.31%	9,392	-39.31%
	N10 Nilai*	15,476	20,833	34.61%	20,833	34.61%
	N15 Juasseh*	15,476	9,354	-39.56%	9,354	-39.56%
	N16 Seri Menanti*	15,476	7,894	-48.99%	7,894	-48.99%
	N17 Senaling*	15,476	7,766	-49.82%	7,766	-49.82%
	N19 Johol*	15,476	9,487	-38.70%	9,487	-38.70%
	N21 Bukit Kepayang*	15,476	22,793	47.28%	22,793	47.28%
N25 Paroi*	15,476	31,081	100.83%	31,081	100.83%	
Malacca	N01 Kuala Linggi*	16,309	10,521	-35.49%	10,521	-35.49%
	N02 Tanjung Bidara*	16,309	9,291	-43.03%	9,291	-43.03%
	N03 Ayer Limau*	16,309	10,469	-35.81%	10,469	-35.81%
	N04 Lendu*	16,309	9,493	-41.79%	9,493	-41.79%
	N05 Taboh Naning*	16,309	8,198	-49.73%	8,198	-49.73%
	N15 Bachang (RECODED: N19 Bachang)	16,309	26,963	82.07%	23,647	44.93%
	N16 Ayer Keroh (RECODED: N15 Ayer Keroh)	16,309	35,747	119.19%	25,491	56.30%
	N17 Bukit Baru (RECODED: N16 Bukit Baru)	16,309	22,497	37.94%	25,773	58.03%
	N23 Telok Emas (RECODED & RENAMED: N18 Alai)	16,309	18,606	14.08%	23,193	42.21%
Johor	N01 Buloh Kasap*	29,449	19,072	-35.24%	19,072	-35.24%
	N05 Tenang*	29,449	18,073	-38.63%	18,073	-38.63%
	N06 Bekok*	29,449	19,594	-33.46%	19,594	-33.46%
	N14 Bukit Naning	29,449	17,069	-42.04%	16,848	-42.79%
	N23 Penggaram*	29,449	45,749	55.35%	45,749	55.35%
	N25 Rengit*	29,449	19,508	-33.76%	19,508	-33.76%
	N29 Mahkota	29,449	46,337	57.35%	43,706	48.41%
	N27 Layang-Layang	29,449	18,498	-37.19%	19,263	-34.59%
	N28 Mengkibol	29,449	42,401	43.98%	44,506	51.13%
	N32 Endau	29,449	19,175	-34.89%	17,882	-39.28%
	N36 Sedili	29,449	25,265	-14.21%	19,392	-34.15%

N39 Tanjung Surat*	29,449	18,217	-38.14%	18,217	-38.14%
N40 Tiram*	29,449	50,639	71.95%	50,639	71.95%
N41 Puteri Wangsa*	29,449	48,953	66.23%	48,953	66.23%
N42 Johor Jaya	29,449	54,794	86.06%	59,041	100.49%
N43 Permas	29,449	53,362	81.20%	49,115	66.78%
N44 Tanjong Puteri (RENAMED: N44 Larkin)	29,449	51,815	75.95%	53,325	81.08%
N45 Stulang*	29,449	45,026	52.89%	45,026	52.89%
N46 Pengkalan Rinting (RENAMED: N46 Perling)	29,449	64,124	117.75%	55,810	89.51%
N47 Kempas*	29,449	40,170	36.41%	40,170	36.41%
N48 Skudai	29,449	58,474	98.56%	69,132	134.75%
N49 Nusajaya (RENAMED: N49 Iskandar Puteri)	29,449	56,151	90.67%	42,949	45.84%
N52 Senai	29,449	40,712	38.25%	44,023	49.49%

For the Federal Territory of Kuala Lumpur where we apply a more stringent standard of 15% and 10%, the EC recommendations are found to worsen malapportionment in three out of 11 parliamentary constituencies. The severely under-sized P119 Titiwangsa (currently 22% below state average) will be even smaller (29% below state average) while P118 Setiawangsa (currently 13% below state average) will be pushed towards breaking the 15% red line. The most ridiculous change happens on P121 Lembah Pantai, where its electorate will drop sharply from 1% above average to 12% below average. (Chart 13)



These 40 parliamentary constituencies (including the 3 in Kuala Lumpur) and 96 state constituencies are not the exhaustive list, but only the most straight-forward examples of constitutional non-compliance with subsection 2(c). The extensiveness of such constitutional non-compliance - covering nearly a quarter of parliamentary and state constituencies in the states of Malaya - is a prima facie

proof that the EC has abdicated its constitutional duty under Article 113(2)(i), by deliberately sustaining and worsening malapportionment. The EC must make public its deliberations and reasonings that produce these recommendations, which are shown in charts highlighted in section 3.1 of this report. If the EC claims to have constitutionally-merited considerations for any of these cases, the merits must be publicly demonstrated and examined. The delimitation process so central to our democracy must not be insidiously subverted in secrecy by none other than those tasked to safeguard it.