

# **The Effects of the 2016 Delimitation Exercise on the State of Penang**

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## **Disclaimer**

The analysis is done in good faith based on the best available data.

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# 1 The Why and How of Delimitation Exercises

## 1.1 The Normative Purposes of Delimitation Exercises

Delimitation of a political unit – a country, a state or a municipality – into electoral constituencies is necessary for democracies with constituency-based electoral systems like the “Single-Member Plurality” (commonly known as “First-Past-The-Post”, FPTP) system in Malaysia. As FPTP elections elect only one winner in each constituency and deny losers any representation even if they lose only by 1 vote, how the constituency boundaries are drawn has far-reaching implications on electoral context and election outcomes.

As equality of citizens is core to democracy, the over-arching principle in delimitation is “one person, one vote, one value”. This principle has two operational meanings.

First, delimitation should aim for “equal apportionment of geographical constituencies”, which means the *electorate size* of every geographical constituency should be equal so that the ballot value of each voter can be *equal across geographical areas*. The opposite malpractice is called “**malapportionment**”. A well-known example of excessive malapportionment in the 2013 General Election in Malaysia is the stark disparity between the parliamentary constituency of Kapar (144,159 voters) and the parliamentary constituency of Putrajaya (15,791 voters). However, as a Federal Territory and like Labuan, Putrajaya is actually a state-level unit and must have a parliamentary seat no matter how small its electorate. The real problematic cases are the inter-state and intra-state malapportionment between and within the 13 states and the Federal Territory of Kuala Lumpur.

Second, delimitation should aim to avoid “vote-seat disproportionality across parties” so that the ballot value of each voter can be *equal across political parties*. For example, in the 2013 General Election, Barisan Nasional (BN) won 60% of parliamentary seats with mere 47% of votes while Pakatan Harapan (PR) won only 40% of parliamentary seats with 60% of votes. Mathematically, this means a vote for BN is worth 1.8 times a vote for PR. Other than malapportionment, the other main cause of such vote-seat disproportionality is **gerrymandering**<sup>1</sup>, the deliberate manipulation of *electorate composition* by drawing constituency boundaries that are not representative but will advantage some contestants over others.

Whereas malapportionment can be identified by objectively calculating the average electoral size within the political unit and the deviation from average of each individual constituency, gerrymandering is much more subjective, as there can be competing arguments for what would constitute the most representative or natural boundaries. Nevertheless, as the logic of representative democracy is to have representatives of different sub-groups in the citizenry to debate and deliberate in a common forum, political constituencies must therefore consist of people with common interests rather than strangers with little commonalities. Common

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<sup>1</sup> The term “gerrymander” was coined in the United States in the 19<sup>th</sup> century after the then Governor of Massachusetts, Elbridge Gerry, who created an odd-shaped constituency that looked like a salamander.



interest is therefore vital in assessing the merits of different boundaries and combination of voters.

The purpose of periodic delimitation is to correct deviations or distortions from equal apportionment and representative boundaries. Such deviations or distortions may arise from demographic and developmental changes over time that make what were once equal-apportioned and representative constituencies no longer so. They may also be due to malapportionment and gerrymandering in the previous delimitation exercises.

The need for constituencies to be updated then brings in two provisions for time limit. First, constituencies must be or can be redelimited after a certain period of time to ensure that deviations or distortions will not be accumulated for too long. Second, there must be a time limit to the delimitation exercise itself so that the information employed will not be outdated.

While previous delimitation exercises since 1974 had always been accompanied by seat increase in the legislatures, and the same also happens for the Sabah State Assembly in this delimitation exercise and the Sarawak State Assembly in the delimitation exercise last year, there is no inherent link between redelimitation and seat increase. Redelimitation can and should happen without creation of new constituencies. In fact, it is a norm in many countries that the legislature size remains stable and seats are reallocated from areas with low or negative electorate growth to centres of population growth.

## **1.2 Constitutional Provisions for Delimitation Exercises**

### **1.2.1 Principal Provisions**

The Election Commission (EC) is tasked by the Federal Constitution to conduct delimitation exercises under Clauses 2, 3, 3A, 3B, 6, 9 and 10 of Article 113, Article 116 and Article 117, which reads:

#### ***Article 113 Conduct of Elections***

*(2) (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.*

*(3) If the Election Commission are of opinion that in consequence of a law made under Article 2 it is necessary to undertake the reviews mentioned in Clause (2), they*

*shall do so, whether or not eight years have elapsed since the last review under that Clause.*

*(3A) (i) Where the number of elected members of the House of Representatives is altered in consequence of any amendment to Article 46, or the number of elected members of the Legislative Assembly of a State is altered in consequence of a law enacted by the Legislature of a State, the Election Commission shall, subject to Clause (3B), undertake a review of the division into federal or State constituencies, as the case may be, of the area which is*

*affected by the alteration, and such review shall be completed within a period of not more than two years from the date of the coming into force of the law making the alteration.*

*(ii) A review under paragraph (i) shall not affect the interval provided under paragraph (ii) of Clause (2) in respect of a review under paragraph (i) of that Clause.*

*(iii) The provisions of the Thirteenth Schedule shall apply to a review under this Clause, but subject to such modifications as may be considered necessary by the Election Commission.*

*(3B) Where an amendment to Article 46 or a law enacted by the Legislative Assembly of a State referred to in paragraph (i) of Clause (3A) comes into force after the lapse of eight years from the date of completion of the last review under Clause (2) and the Election Commission are of the opinion that it is necessary to undertake a review under Clause (2), the Election Commission shall not undertake a review under paragraph (i) of Clause (3A) but shall instead undertake a review under Clause (2) and in conducting such review shall take into account any area which is affected in consequence of the amendment or the law referred to in paragraph (i) of Clause (3A).*

*(6) There shall be separate reviews under Clause (2) for the States of Malaya and for each of the States of Sabah and Sarawak, and for the purposes of this Part the expression "unit of review" shall mean, for federal constituencies, the area under review and, for State constituencies, the State and the expression "States of Malaya" shall include the Federal Territories of Kuala Lumpur, Labuan and Putrajaya.*

*(9) The date of the commencement of a review under Clause (2) or Clause (3A), as the case may be, shall be the date of the publication in the Gazette of the notice referred to in section 4 of the Thirteenth Schedule.*

*(10) The date of the completion of a review under Clause (2) or Clause (3A), as the case may be, shall be the date of the submission of the report to the Prime Minister under section 8 of the Thirteenth Schedule, and a notice of such date shall be published by the Election Commission in the Gazette.*

#### **Article 116 Federal constituencies**

*(1) For the election of members to the House of Representatives a unit of review shall be divided into constituencies in accordance with the provisions contained in the Thirteenth Schedule.*

*(2) The total number of constituencies shall be equal to the number of members, so that one member shall be elected for each constituency, and of that total in the States*

*of Malaya a number determined in accordance with the provisions contained in Article 46 and the Thirteenth Schedule shall be allocated to each State.*

**Article 117 State constituencies**

*For the election of members to the Legislative Assembly of a State the State shall be divided into as many constituencies as there are elected members, so that one member shall be elected for each constituency; and the division shall be made in accordance with the provisions contained in the Thirteenth Schedule.*

Up until 1962, the allocation of parliamentary seats across states and the districting within each state was an integral process informed by simple mathematical calculations, under Article 116(3)-(5) which stipulated that:

*(3) Constituencies shall be allocated to the several States on such manner that the electoral quota of each state is nearly equal to the electoral quota of the Federation as it can be without causing undue disparity between the population quota of the state and the population quota of the Federation.*

*(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.*

*(5) In this Article,*

*(a) "electoral quota" means the number obtained by dividing the number of electors in the Federation or a State by the total number of constituencies or, as the case may be, the number of constituencies in that state;*

*(b) "population quota" means the number obtained by dividing the population of the Federation or of a State by the total number of constituencies or, as the case may be, the number of constituencies in that state.*

After the 1962 Constitutional Amendment, the allocation of parliamentary seats across the states is spelled out in Article 46 and therefore determined by the Parliament without any constraint. The EC is only in-charge of intra-state apportionment of parliamentary and state constituencies, which is governed by the Thirteenth Schedule.

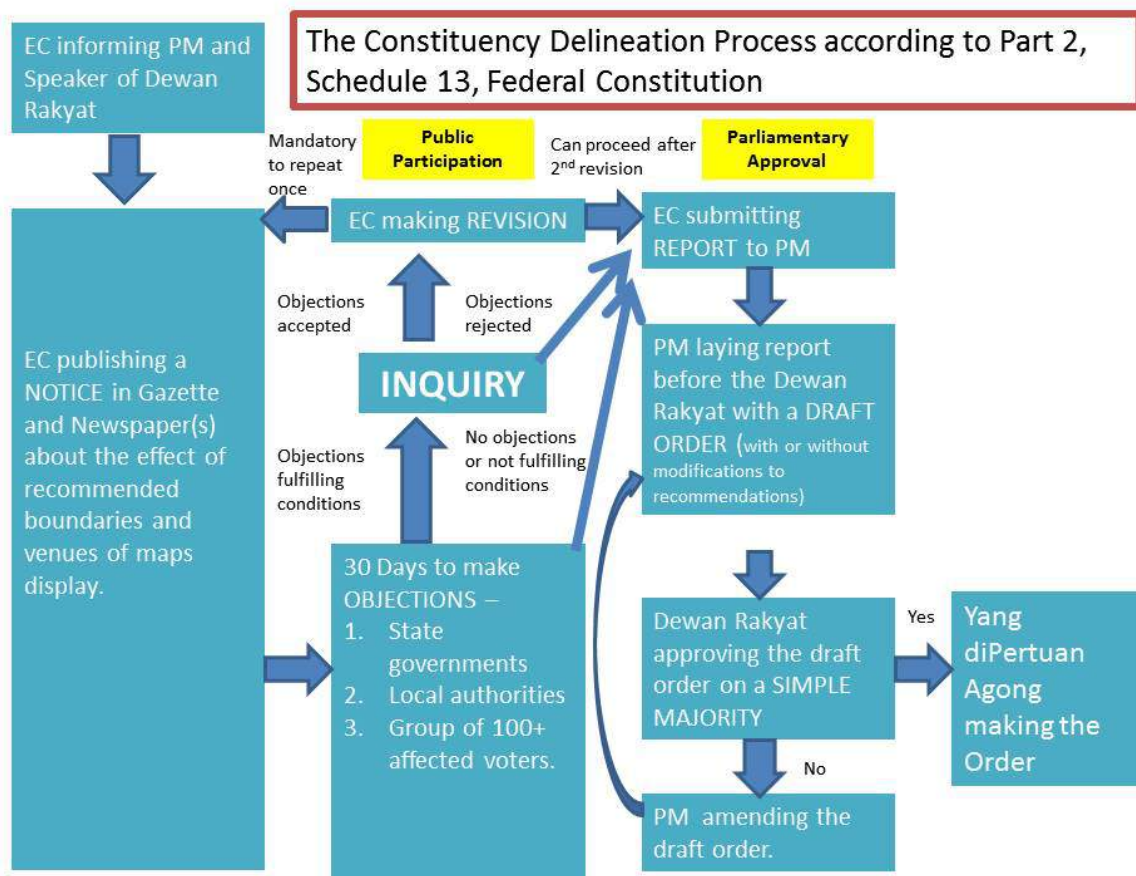
### **1.2.2 Redelimitation Process under the Thirteenth Schedule**

The redelimitation process stipulated by Part II of the Thirteenth Schedule consists of two stages: public participation and parliamentary approval. It is important to note that the two stages are parts of the same process, with a division of labour between the stakeholders tasked to raise objection against the EC's recommendations that undermine their representation and the Parliament tasked to scrutinise the entire delimitation package and decide on its approval. (**Illustration 1**)

The public participation stage starts when the EC publishes its first delimitation notice with the details of its recommendations to be put on display in hardcopy, and, in the latest exercises, online. Under Section 4, any party may make representations to the EC within 30 days. Under Section 5, objections raised by three types of stakeholders – state governments, local authorities and any group of 100 or more voters affected by the delimitation – may cause local inquiries to be held. Under Section 7, if the EC makes any changes to recommendations, then the new proposals should be put on display again for another 30 days. Again, the EC must hold inquiries to hear objections by any stakeholders from one of the three types above. Only two rounds of display and inquiries are mandatory although there is nothing to prevent more.

After the second round of inquiries, under Section 8, the EC shall submit a report of its final recommendations to the Prime Minister (PM), which commences the parliamentary approval stage. Under Section 9, the PM should lay the report before the House of Representatives with the draft of an Order to, with or without modifications, enforce the recommendations. The House of Representatives shall then vote on the draft Order, which requires only one-half of all the parliamentarians – currently, 111 members -- to pass. If the draft order is not passed, the PM may consult the EC and revise the draft Order. Once the draft Order is passed, it will be submitted to the Yang diPertuan Agong and to come in force.

**Illustration 1 The Redelimitation Process as per Sections 4-12 of the Thirteenth Schedule, Federal Constitution**



### 1.2.3 The Four Principles informing the Delimitation Exercises

Section 2 of the Thirteenth Schedule lists four principles which “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”, which are

*(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.*

**Sub-section 2(a)** is necessary as the political and electoral subdivision is organised in such a way that states are sub-divided into parliamentary constituencies, which are in turn sub-divided into state constituencies. This principle has always been followed.

**Sub-section 2(b)** is to ensure the constituencies carved out will have the necessary administrative facilities for voter registration and polling. This principle which aims to facilitate the EC’s works is naturally not violated by the body itself.

**Sub-section 2(c)** may be characterised as the anti-malapportionment provision. It is unfortunately misinterpreted by the EC as the basis of malapportionment, which stretched its meaning to divide constituencies by their degree of urbanisation into five categories: metropolitan, urban, semi-urban, semi-rural and rural. (Table 1) Many others are also convinced that ruralness is a criterion for over-representation.

**Table 1** *The EC's Malapportionment Guidelines by Electorate Size and Geographical Area in 2003 and 2005*

Class	2003 (The Peninsula and Labuan)		2003 (Sabah)		2005 (Sarawak)	
	Parliamentary Constituencies	State Constituencies	Parliamentary Constituencies	State Constituencies	Parliamentary Constituencies	State Constituencies
<b>Metropolitan</b>	70,000-90,000 voters	30,000-49,000 Voters	40,000-50,000 voters	18,000-25,000 Voters	60,000-69,000 voters	25,000-35,000 Voters
	8-26 km <sup>2</sup>		8-60 km <sup>2</sup>		11-26 km <sup>2</sup>	
<b>Urban</b>	50,000-69,000 voters	25,000-29,000 Voters	30,000-39,000 voters	15,000-18,000 Voters	50,000-59,000 voters	20,000-25,000 Voters
	27-49 km <sup>2</sup>		61-500 km <sup>2</sup>		27-49 km <sup>2</sup>	
<b>Semi-urban</b>	40,000-49,000 voters	15,000-24,000 Voters	25,000-29,000 voters	10,000-14,000 Voters	40,000-49,000 voters	15,000-20,000 Voters
	50-99 km <sup>2</sup>		501-1000 km <sup>2</sup>		50-90 km <sup>2</sup>	
<b>Semi-rural</b>	30,000-39,000 voters	10,000-14,000 Voters	20,000-24,000 voters	8,000-10,000 Voters	30,000-35,000 voters	10,000-15,000 Voters
	100-250 km <sup>2</sup>		1001-1500 km <sup>2</sup>		100-250 km <sup>2</sup>	
<b>Rural/Inland</b>	20,000-29,000 voters	7,000-9,000 Voters	<=20,000 Voters	<=8,000 Voters	20,000-29,000 voters	7,000-10,000 Voters
	>250 km <sup>2</sup>		>1500 km <sup>2</sup>		>250 km <sup>2</sup>	

**Sources:**

1. *Laporan Suruhanjaya Pilihan Raya Malaysia Mengenai Kajian Semula Persempadanan Bahagian-bahagian Pilihan Raya Parlimen dan Negeri Bagi Negeri-negeri Tanah Melayu (2003), pages 19-20*
2. *Laporan Suruhanjaya Pilihan Raya Malaysia Mengenai Kajian Semula Persempadanan Bahagian-bahagian Pilihan Raya Parlimen dan Negeri Bagi Negeri Sabah (2003), pages 13-15*
3. *Laporan Suruhanjaya Pilihan Raya Malaysia Mengenai Kajian Semula Persempadanan Bahagian-bahagian Pilihan Raya Parlimen dan Negeri Bagi Negeri Sarawak (2005), pages 21-22*

To understand or interpret the sub-section, it is best to first understand its original form before the 1973 Constitutional Amendment and the effect of the Amendment. Its original form reads

*“the number of electors within each constituency ought to be approximately equal throughout the unit of review 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, to the extent that in some cases a rural constituency may contain as little as one half of the electors of any urban constituency;” (underline mine)*

and spells out clearly three matters:

1. The rule is equal apportionment, underlined by the phrase “approximately equal”.
2. The basis for exception (over-representation) is “area” or land mass in the phrase “a measure of weightage for area”. The phrases “to the greater difficulty of reaching electors in the country districts and the other disadvantages facing rural constituencies” are justifications for “area”, not replacing “area” as the basis. The necessity of constituency landmass information in justifying over-representation is recognised by the EC, as shown in Table 1 and also in the EC’s reports submitted to the Parliament. In a nutshell, there is an “area weightage”, not a “rural weightage” commonly misunderstood.
3. The limits to exceptions (“a measure of weightage”) are in the now deleted clause, where by “a rural constituency may contain as little as one half of the electors of any urban constituency”. The phrase “in some cases” clearly implies that only “some” and “not all” rural constituencies are entitled to such limit. In simple English, it may be understood as “in the extreme cases, 0.5 can be seen as ‘approximately equal’ to 1”. Flipped over, it also means “in the extreme cases, 2 can be seen as ‘approximately equal’ to 1”.

The 1973 Amendment removes the limits to exceptions. Hence, “if a rural constituency contains as little as 0.49 of the electors of any urban constituency” or in its reversed form, “if an urban constituency contains as many as 2.04 times of the electors in any rural constituency”, it will not be automatically unconstitutional. With this flexibility, while “0.49 is approximately equal to 1” or “2.04 is approximately equal to 1” can be acceptable. It however does not mean “any number” can be “approximately equal to 1”.

The 1973 Amendment also does not affect the first two implications, “approximately equal” as the rule, and “area” or “landmass” as the basis for exception (over-representation).

**Sub-section 2(d)** with its key phrase “maintenance of local ties” can be understood as the constitutional safeguard against gerrymandering, although the word is not used. While defining “gerrymandering” is subjective, and “local ties” is not defined in the Federal Constitution, identifying failures in “maintenance of local ties” is not as subjective as it may appear to be. Or, we may choose to operationalise “maintenance of local ties” more objectively to reduce the grey areas.

This report sets out to identify three types of failures in “maintenance of local ties”, which may or may not be due to deliberate gerrymandering.

Type 1 is those constituencies that span across more than one local authority jurisdiction. As local authorities play a substantial role in public life, local authority boundaries constitute the basis of some “local ties” and constituencies should be formed by grouping voters from the same local authority jurisdiction and not across different jurisdictions.

As Penang has only two local authorities - Majlis Bandaraya Pulau Pinang (MBPP) and Majlis Perbandaran Seberang Perai (MPSP) - separated by Penang Strait, this question does not arise. Incidentally, the five administrative districts in Penang – Timur Laut, Barat Daya, Seberang Prai Utara, Seberang Prai Tengah and Seberang Prai Selatan also fall neatly within the two local authority areas. And some key federal agencies have their district-level presence, such as Police District, District Education Office, District Health Office and District Welfare Office, with functional areas largely - if not fully - overlapped with the administrative districts. It is therefore reasonable to believe that administrative districts are an important basis of local ties in Penang and to expect electoral boundaries not to cross district boundaries for the consideration of “maintenance of local ties”.

Type 2 is those constituencies which arbitrarily group together local communities without common interests, even though these communities are adjacent and fall within the same local authority jurisdiction.

Type 3 is the partitioning of local community or neighbourhoods by electoral boundaries.



## **2 The Delimitation Notice for the States of Malaya and the Recommendation for Penang published on September 15, 2016**

### **2.1 Information Given**

“P.U.(B) 410/2016 The Notice of Proposed Recommendations for the Federal and State Constituencies in the States Malaya”<sup>2</sup> (hereafter “The Delimitation Notice”) and the “Proposed Recommendations For Federal And State Constituencies For The State Of Pulau Pinang As Reviewed By The Election Commission In 2016”<sup>3</sup> (hereafter “The Recommendations for Penang”) revealed that the electoral rolls used in the delimitation exercise were the ones “endorsed and gazetted on 13 May 2016 [P.U. (B) 217/2016] and read together with P.U. (B) 399/2016 dated 6 September 2016”. The rolls contain 11,379,352 voters for all the States of Malaya (including the Federal Territories of Putrajaya and Labuan) and 867,748 voters in Penang alone.

There is no seat increase for Penang at both the Parliament and State Assembly. The Delimitation Notice and Recommendations for Penang did not propose name changes for both parliamentary and state constituencies.

Both the Delimitation Notice and the Recommendations for Penang also listed parliamentary constituencies which are affected. The boundaries for majority of Penang’s parliamentary constituencies remained unaffected, with only two parliamentary constituencies<sup>4</sup> included in the revision, which are:

1. P041 Kepala Batas
2. P053 Balik Pulau

No information of affected and unaffected state constituencies was similarly given.

At the constituency level, the electorate size of each parliamentary and state constituency is provided by the Delimitation Notice. For example, the proposed parliamentary constituency of P041 Kepala Batas will have 53,194 voters. The proposed state constituencies under Kepala Batas are: N01 Penaga with 17,133 voters, N02 Bertam with 16,621 voters and N03 Pinang Tunggal with 19,440 voters (Illustration 2). The Recommendations for Penang further provides the breakdown of voters at the polling district level. In the same example, out of 17,133 voters for the proposed state constituency of N01 Penaga, 2,255 would come from the Polling District of Kuala Muda. (Illustration 3)

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<sup>2</sup> [http://www.federalgazette.agc.gov.my/output/pub\\_20160915\\_P.U.\(B\)410-2016-NotisKSPTanahMelayu.pdf](http://www.federalgazette.agc.gov.my/output/pub_20160915_P.U.(B)410-2016-NotisKSPTanahMelayu.pdf)

<sup>3</sup> [http://www.spr.gov.my/media/persempadanan\\_semula\\_2016/persempadanan\\_semula\\_2016.zip](http://www.spr.gov.my/media/persempadanan_semula_2016/persempadanan_semula_2016.zip)

<sup>4</sup> Logically, when a constituency’s boundary is changed, its neighbours will be affected. As these two parliamentary constituencies are not adjacent, some neighbouring parliamentary constituencies – P042 Tasik Gelugor, P051 Bukit Gelugor and P052 Bayan Baru – are also affected. Mapping the existing and proposed boundaries on the same map also shows a minor change on the boundary between P046 Batu Kawan and P047 Nibong Tebal

The Recommendations for Penang also provides a statewide map of Penang with the new proposed Parliamentary and State constituency boundaries. (Map 1) The map is in high-resolution and available electronically. It shows some town names and road networks.

***Illustration 2 Information of Constituency Electorate Given in the Delimitation Notice (page 33)***

<b>PULAU PINANG</b>		
(1)	(2)	(3)
Bahagian Pilihan Raya Persekutuan	Bahagian Pilihan Raya Negeri	Bilangan Pemilih
<i>Federal Constituencies</i>	<i>State Constituencies</i>	<i>Number of Electors</i>
P. 041 Kepala Batas	N. 01 Penaga	17,133
	N. 02 Bertam	16,621
	N. 03 Pinang Tunggal	19,440
Jumlah Bilangan Pemilih dalam Bahagian Pilihan Raya Persekutuan P. 041 Kepala Batas:		<b>53,194</b>
<i>Total Number of Electors in the Federal Constituency of P. 041 Kepala Batas:</i>		

***Illustration 3 Information of Constituency Electorate Given in the Recommendations for Penang (page 8)***

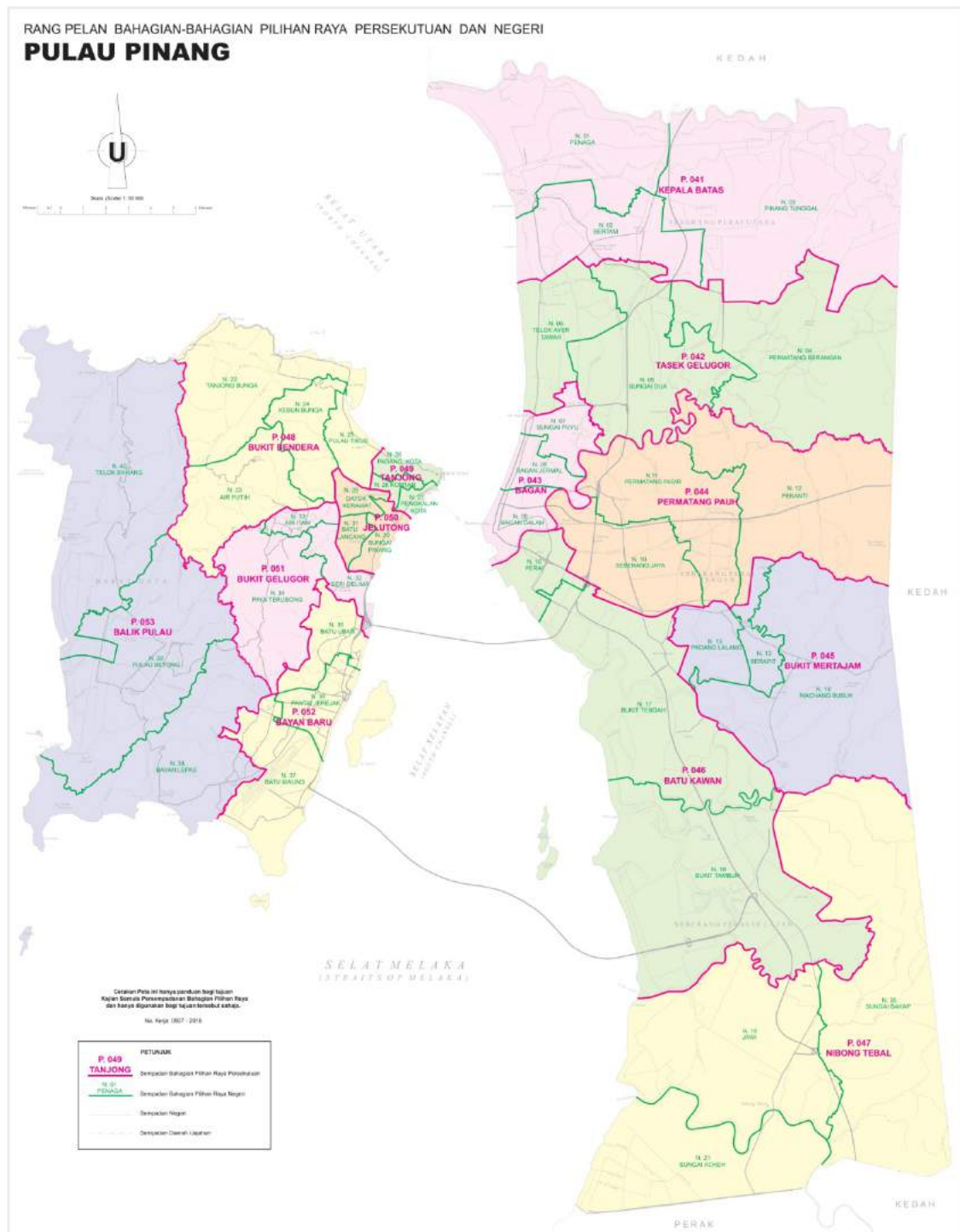
**BILANGAN PEMILIH BAGI BAHAGIAN-BAHAGIAN PILIHAN RAYA PERSEKUTUAN  
DAN NEGERI DALAM NEGERI PULAU PINANG**

***NUMBER OF ELECTORS FOR THE FEDERAL AND STATE CONSTITUENCIES IN THE  
STATE OF PULAU PINANG***

**BAHAGIAN PILIHAN RAYA PERSEKUTUAN: P. 041 KEPALA BATAS  
*FEDERAL CONSTITUENCY: P. 041 KEPALA BATAS***

(1) Bahagian Pilihan Raya Negeri <i>State Constituency</i>	(2) Daerah Mengundi <i>Polling District</i>	(3) Bilangan Pemilih <i>Number of Electors</i>
N. 01 PENAGA	1. Kuala Muda	2,255
	2. Pulau Mertajam	3,018
	3. Pasir Gebu	1,329
	4. Penaga	3,453
	5. Kota Aur	2,142
	6. Permatang Janggus	1,664
	7. Guar Kepah	914
	8. Permatang Tiga Ringgit	1,128
	9. Lahar Kepar	1,230
		<b>17,133</b>

**Map 1 The Electoral Map of Penang (in reduced resolution)**



## **2.2 Comparison to the Information Expected to Be Given to the Parliament**

As argued earlier in sub-section 1.2.2, public participation and parliamentary approval are two stages of the same process with a division of labour between the stakeholders tasked to raise objection locally against the EC's recommendations and the Parliament tasked to globally scrutinise the delimitation package and decide on its approval. For this reason, information provided to both the stakeholders and the Parliament should be the same. What's good for the goose is good for the gander. If certain information is needed for the Parliament to decide on whether to approve the EC's recommendations, such information would be necessary for the stakeholders to decide whether their interests are negatively affected by the EC's recommendations and whether they should raise objection.

What information is expected to be given to the Parliament in the EC's final report on the delimitation exercise? The EC's report for the delimitation exercise in Sarawak submitted to the Parliament on November 26, 2015 provides useful clues.

The Sarawak report contains two types of information that are not available in either the Delimitation Notice or the Recommendations for Penang.

The first is land mass information for each parliamentary and state constituency. (Illustration 4) This information is vital to ascertain if significant or excessive over-representation can be justified on the basis of "area". As shown earlier, the importance of landmass information in this respect is fully recognised by the EC.

The second is constituency-level maps with polling district. (Map 2) The maps do not contain information of places or roads to be completely useful. Nevertheless, such maps still contain more information than those available to the State Governments, Local Authorities and affected voters.

***Illustration 4 A Sample of Constituency Landmass Information Provided by the EC Report on the 2015 Sarawak Delimitation Exercise Submitted to the Parliament.***

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**LAMPIRAN 6**

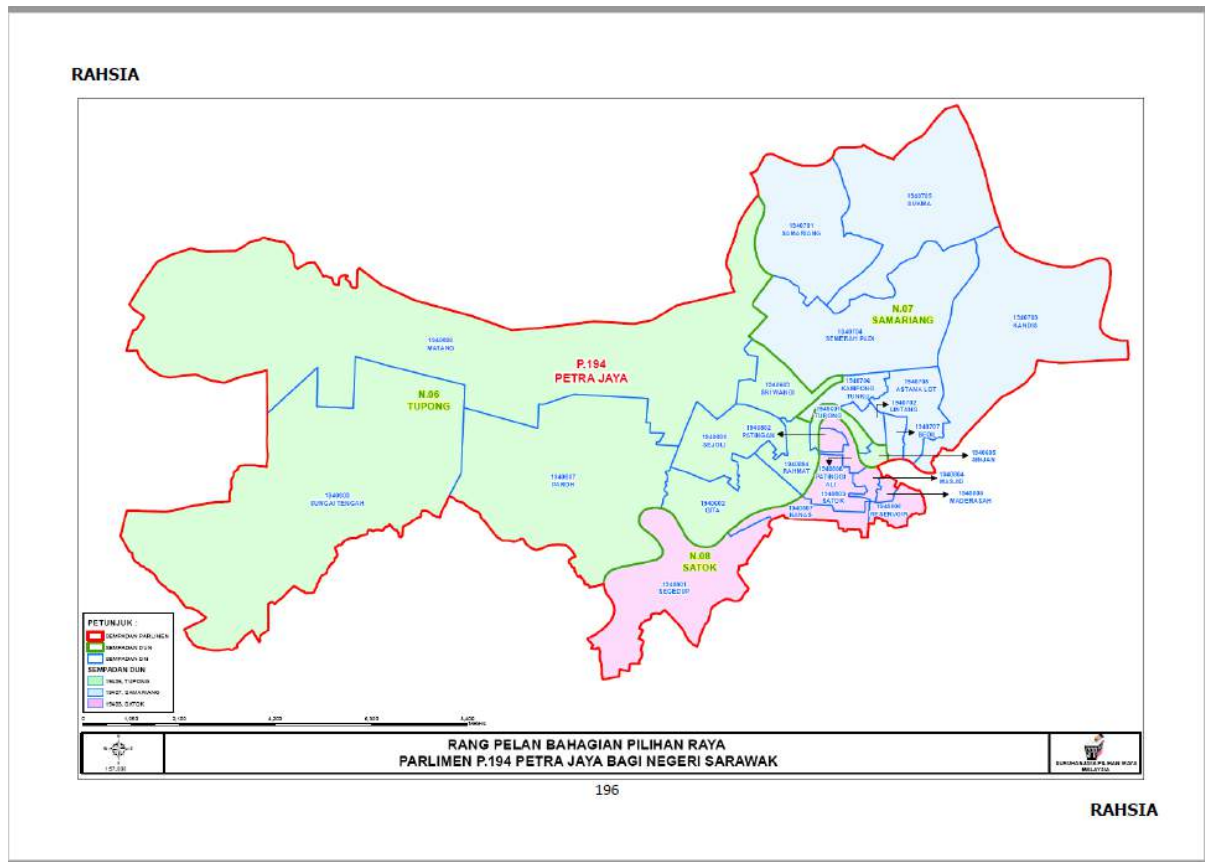
**KELUASAN BAHAGIAN-BAHAGIAN PILIHAN RAYA PERSEKUTUAN  
DAN NEGERI BAGI NEGERI SARAWAK SELEPAS PENGESYORAN**

<b>BAHAGIAN PILIHAN RAYA</b>	<b>KELUASAN (KM PERSEGI)</b>
N. 01 Opar	1,010
N. 02 Tasik Biru	471
<b>P. 192 MAS GADING</b>	<b>1,481</b>
N. 03 Tanjong Datu	905
N. 04 Pantai Damai	373
N. 05 Demak Laut	223
<b>P. 193 SANTUBONG</b>	<b>1,501</b>
N. 06 Tupong	99
N. 07 Samariang	17
N. 08 Satok	10
<b>P. 194 PETRA JAYA</b>	<b>126</b>
N. 09 Padungan	6
N. 10 Pending	14
N. 11 Batu Lintang	15
<b>P. 195 BANDAR KUCHING</b>	<b>35</b>
N. 12 Kota Sentosa	35
N. 13 Batu Kitang	80
N. 14 Batu Kawah	79
<b>P. 196 STAMPIN</b>	<b>194</b>
N. 15 Asajaya	246
N. 16 Muara Tuang	399
N. 17 Stakan	100
<b>P. 197 KOTA SAMARAHAN</b>	<b>745</b>

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**Map 2** *A Sample of Constituency-Level Map Provided in the EC Report on the 2015 Sarawak Delimitation Exercise Submitted to the Parliament*



### 2.3 Information on the “Effect” of the EC Recommendations

Going beyond comparing information that would be given to the Parliament, do the Delimitation Notice and the Recommendations for Penang provide enough information for the State Government, Local Authorities and affected voters to make sense of the EC recommendations?

Section 4 of the Thirteenth Schedule links explicitly information on the effect of the EC recommendations to representations made by the stakeholders. The Section says:

*“Where the Election Commission have provisionally determined to make recommendations under Clause (2) of Article 113 affecting any constituency, they shall inform the Speaker of the House of Representatives and the Prime Minister accordingly, and shall publish in the Gazette and in at least one newspaper circulating in the constituency a notice stating—*

*(a) the effect of their proposed recommendations, and (except in a case where they propose to recommend that no alteration be made in respect of the constituency) that a copy of their recommendations is open to inspection at a specified place within the constituency; and*

*(b) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of such notice, and the Commission shall take into consideration any representations duly made in accordance with any such notice*

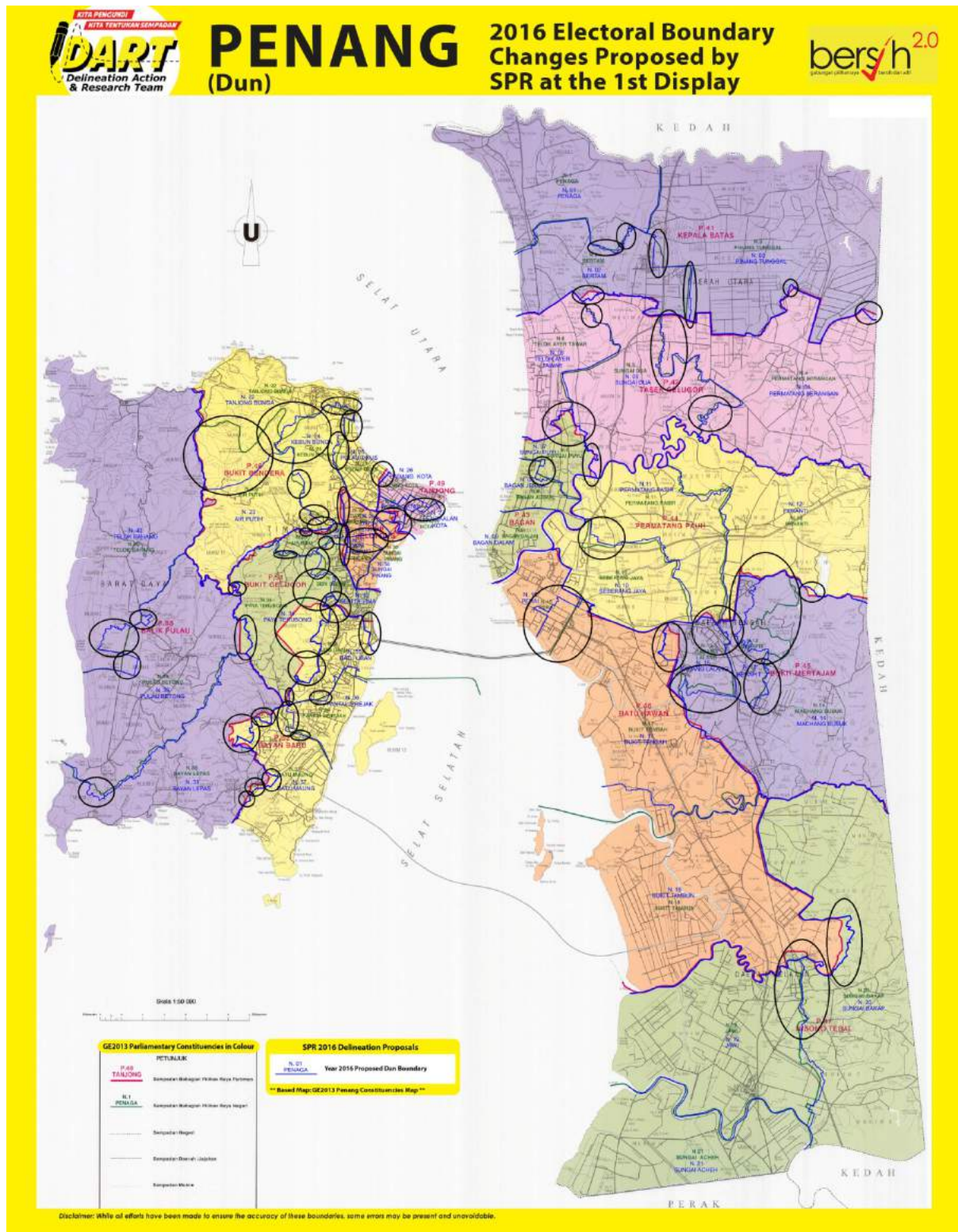
The word “effect” here may assume two meanings.

Empirically, can a voter know what changes have taken place and how these might affect her interests? Does knowing the name and electorate size of parliamentary constituency, state constituency and polling districts and boundaries on a state-wide map suffice? The EC recommendations – both in electorate data and map – are like an edited Word document with no tracked changes. How can a voter who lives near a constituency boundary know on which side of the boundary she would be voting in the future? The EC can easily allow voters to search on its website for both their existing and proposed constituencies but it does not do so.

Map 3 shows - in circles, like “tracked changes” - those identified and suspected boundary changes by overlaying the new proposed boundaries on top of the electoral map in 2013. Even with the help of these circles marked on the map, can a voter possibly find her own location on the map and have a clear sense of how her constituency may have changed? The state-wide map does not convey this clarity.



**Map 3: Identified and Suspected Boundary Changes in Penang Circled After Overlaying New Proposed Boundaries on the Electoral Map in 2013**



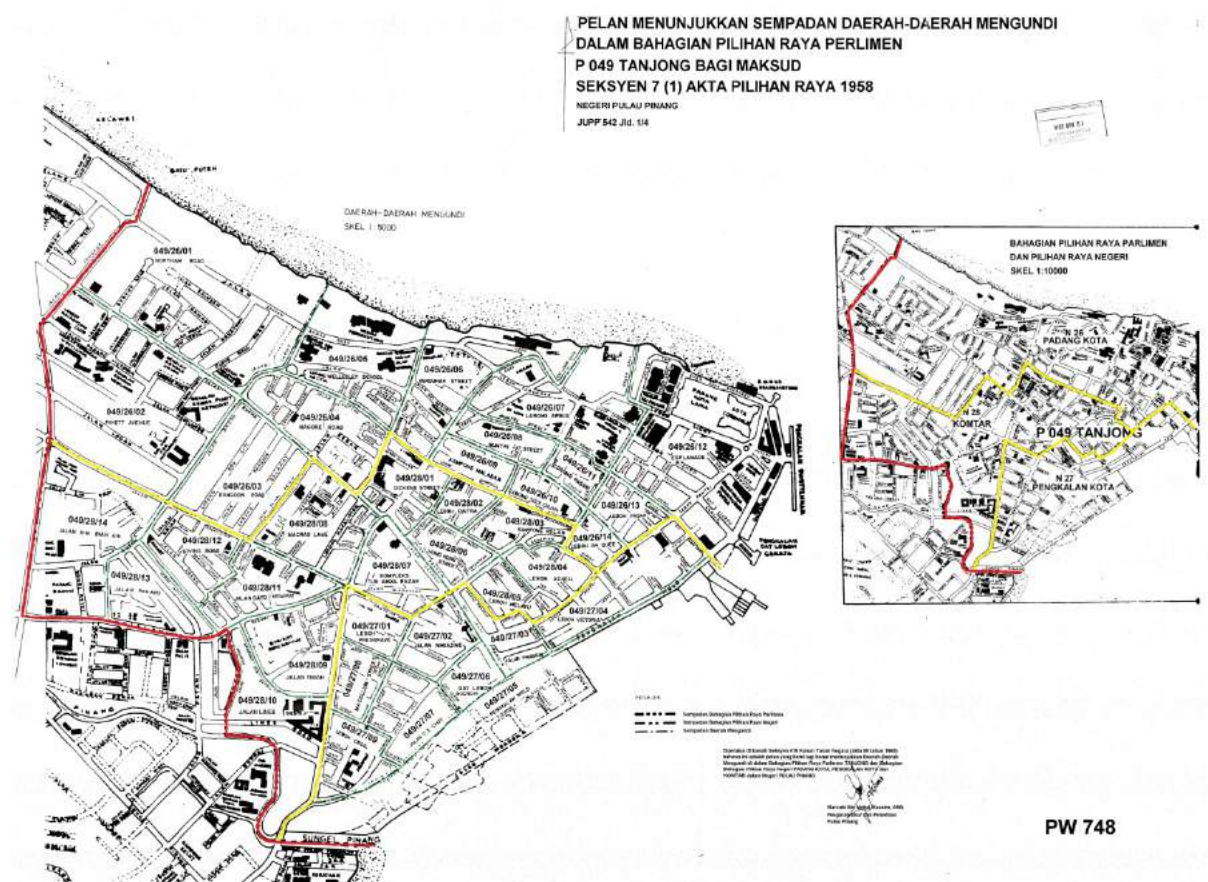
Normatively, the “effect” is not just any change of the boundaries, but specific change that makes the constituencies more in line with the four principles spelled out in Section 2 of the Thirteenth Schedule, especially sub-section 2(c) that requires equal intra-state apportionment with exception on the ground of “area” and sub-section 2(d) that aims for “maintenance of local ties”.

Clearly, to state the “effect” of the recommended delimitation as per the requirement of sub-section 4(a), the EC must provide more information.

Empirically, voters must be provided with a constituency-level map used during elections (Map 4). Besides the standard polling district boundaries and land use details, these maps should also have the local authority boundaries marked. Voters should also be shown the tentative electoral rolls for the proposed constituencies. Alternatively, the EC website should provide a search facility to identify both the existing and proposed constituencies for voters.

Normatively, the EC must even list down every boundary change and provide the justifications and considerations.

**Map 4: A Sample of Constituency Electoral Map Used During Elections**



### 3 Intra-state Malapportionment of Constituencies in Penang

#### 3.1 Parliamentary Constituencies

Table 2 lists all proposed parliamentary constituencies in Penang and their electorate sizes. Chart 1 sorts them in ascending order, with Tanjong's 50,324 voters at one end and Bukit Gelugor's 84,755 voters at the other. The largest-to-smallest ratio is 1.68:1. While the magnitude of malapportionment is within the  $\pm 33.33\%$  band of deviation from average, the standard in force from 1962 to 1973, the EC should still redelimit to minimize malapportionment since the next opportunity to do so would be at least eight years later. Its failure to propose constituencies with electorate size close to the state average of 66,750 may see the disparity growing. More principledly, redelimitation should always aim towards equal apportionment unless over-representation is constitutionally merited on the ground of area. While Balik Pulau which covers the less developed half of the Penang island may qualify to have as little as 51,612 voters, it is completely unjustifiable for Tanjong at the heart of George Town to have only 50,324 voters.

*Table 2: The Proposed Parliamentary Constituencies in Penang and Their Electorate Sizes*

<b>Parliamentary Constituency</b>	<b>Electorate Size</b>
P041 Kepala Batas	53,194
P042 Tasek Gelugor	55,064
P043 Bagan	69,389
P044 Permatang Pauh	74,171
P045 Bukit Mertajam	81,031
P046 Batu Kawan	59,144
P047 Nibong Tebal	61,613
P048 Bukit Bendera	71,767
P049 Tanjong	50,324
P050 Jelutong	72,772
P051 Bukit Gelugor	84,755
P052 Bayan Baru	82,912
P053 Balik Pulau	51,612

**Chart 1: Malapportionment of Proposed Parliamentary Constituencies in Penang (September 2016)**

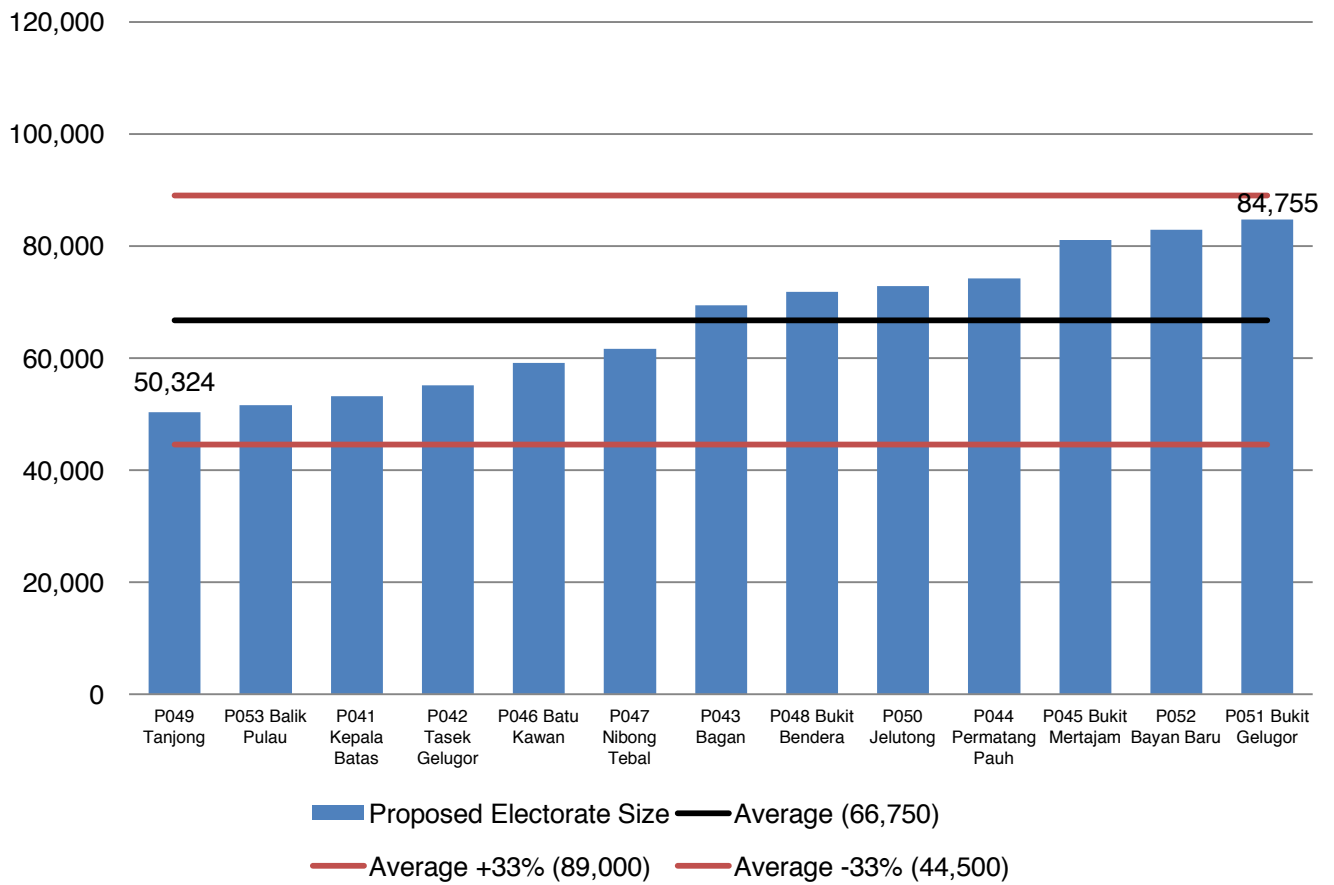


Chart 2 presents the data differently in two ways. Firstly, the constituencies are sorted by their code number so that a comparison of deviations over time may be possible. Secondly, and most importantly, the electorate sizes are now represented as deviations – in percentage – from the average. As the X-axis is the average, all the bars above the X-axis indicate oversized constituencies and under-representation, while all the bars below it indicate under-sized constituencies and over-representation.

This intuitively shows not just the state of malapportionment, but also one of the two fundamental purposes of redelimitation: to eliminate those bars as far as possible as possible so that the electorate sizes of all constituencies can *converge around the average*.

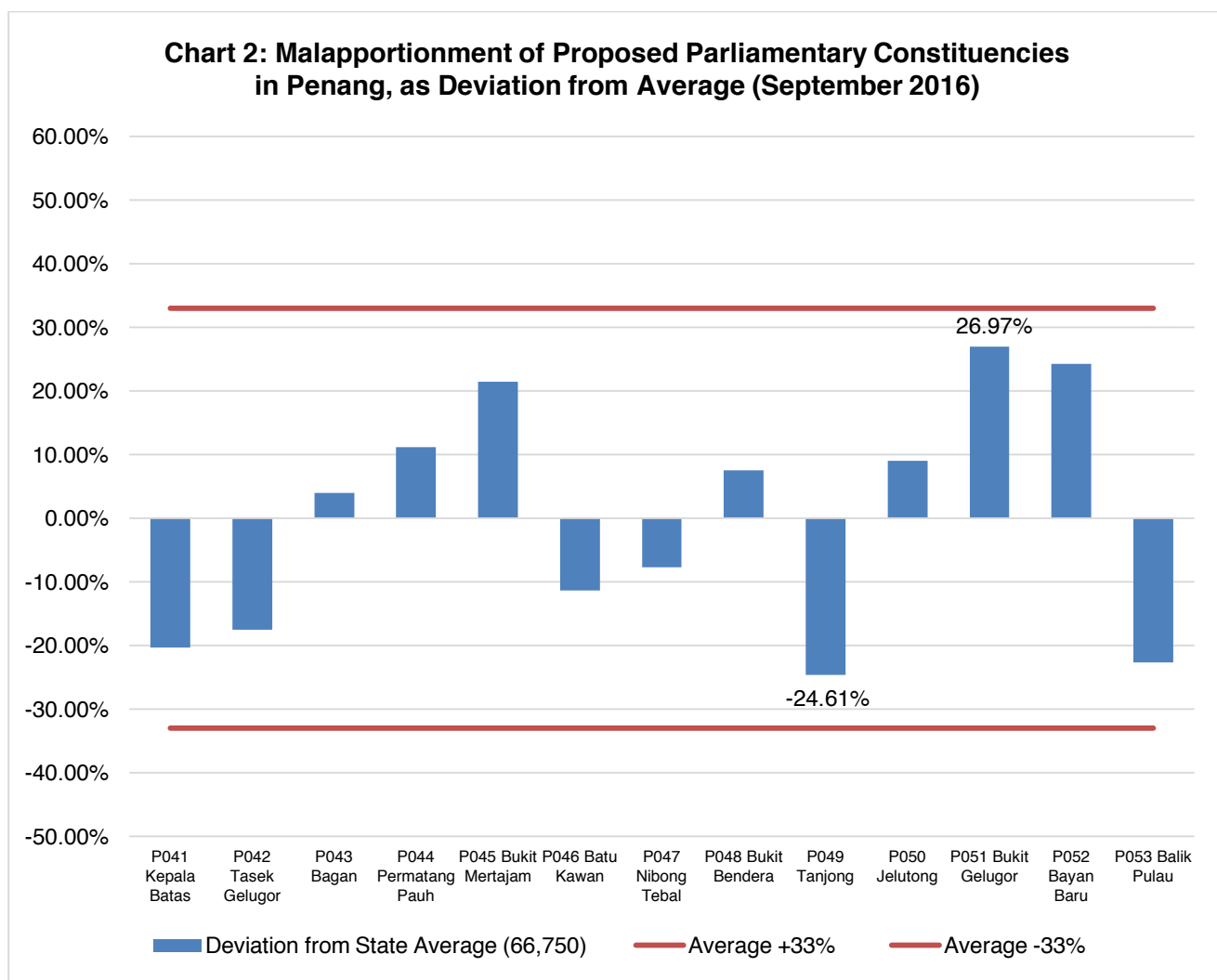
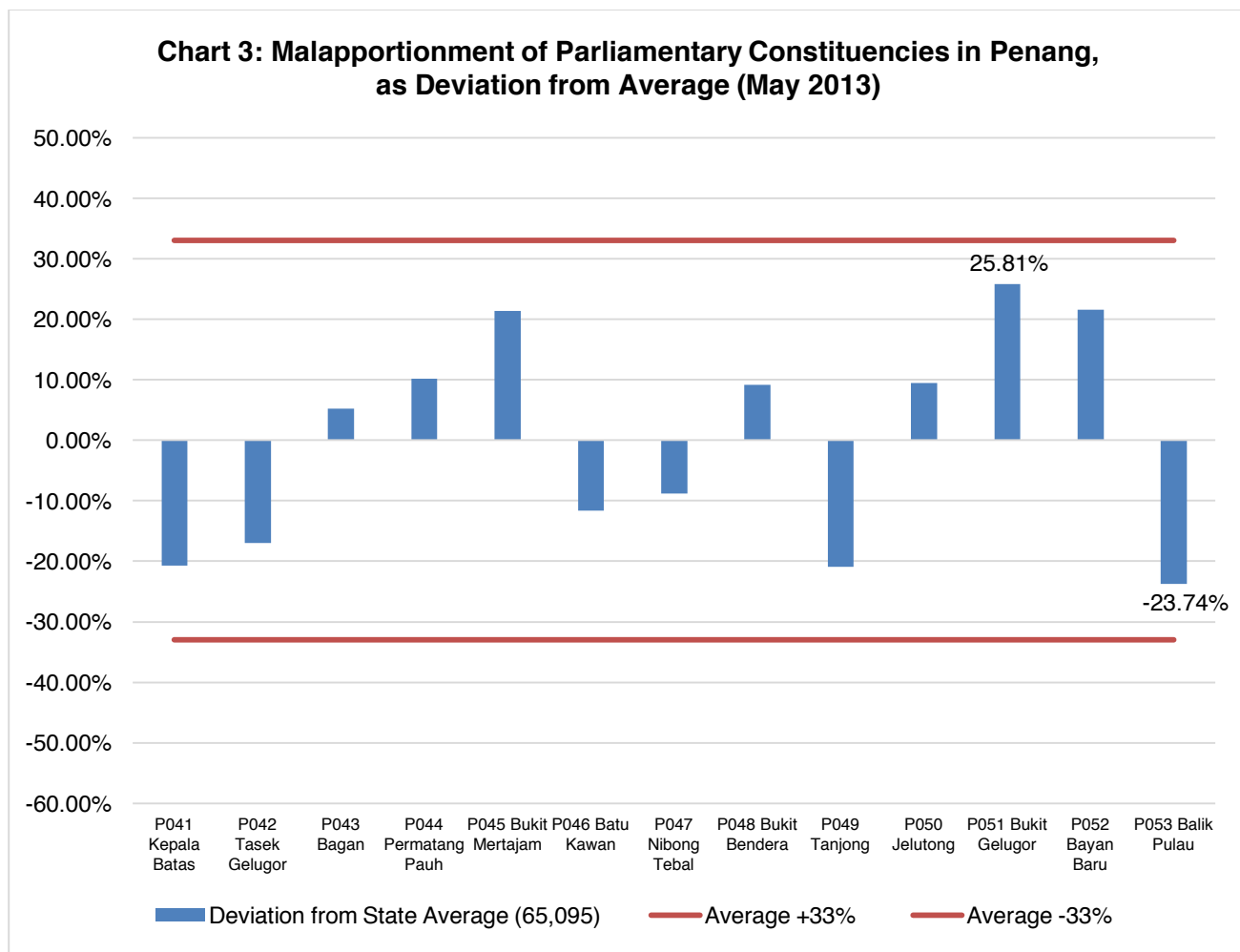


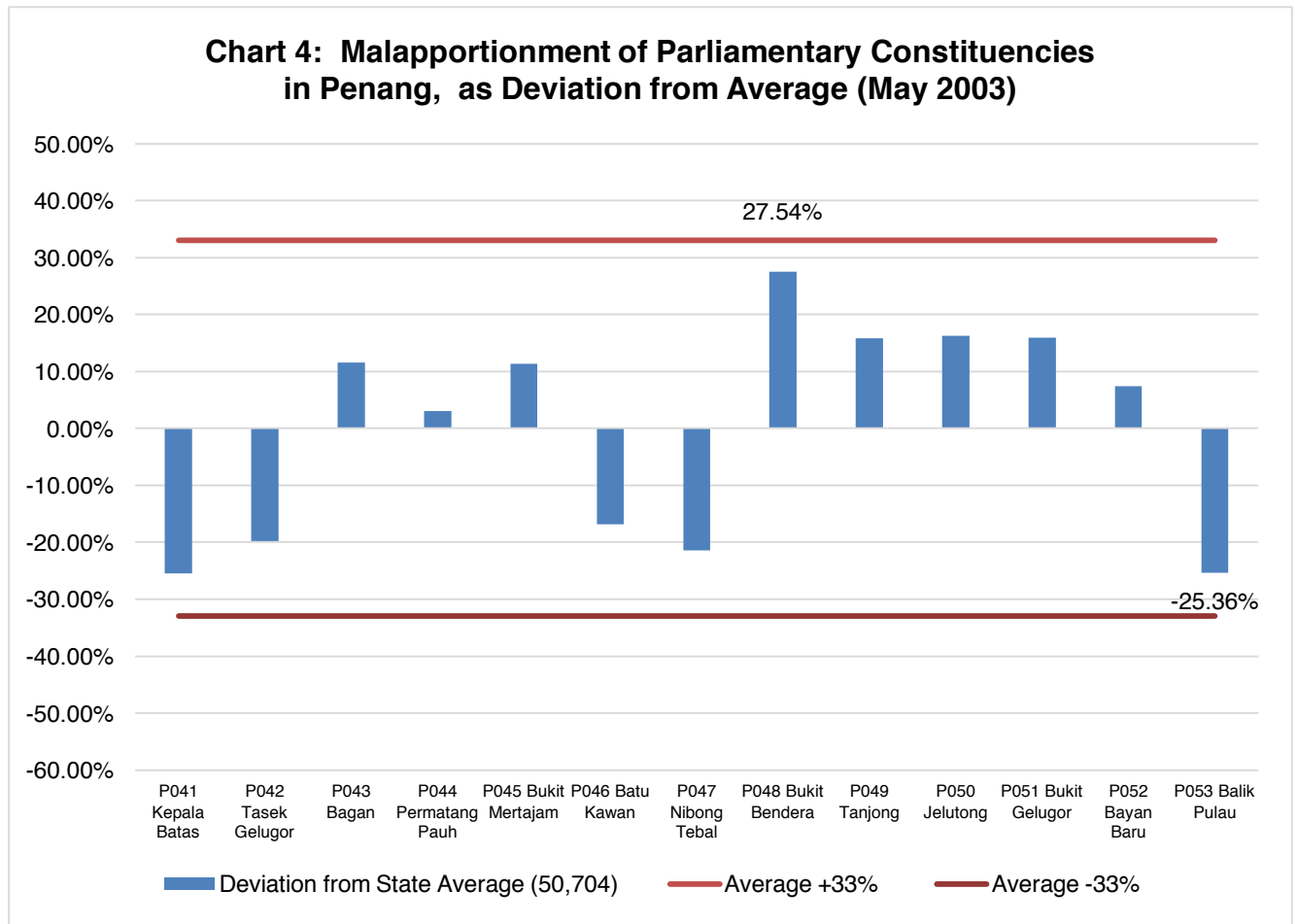
Chart 3 shows the state of malapportionment<sup>5</sup> in the last general election in 2013. As the growth of electorate between then and now is very moderate, as indicated by the insignificant rise of state average from 65,095 to 66,750, this can be seen as the proxy for the current state of malapportionment<sup>6</sup> without the proposed delimitation. A quick comparison of Chart 2 and Chart 3 shows little difference despite many boundary changes as indicated in Map 3. This means the EC recommends labourious boundary changes but the purpose is not to reduce malapportionment, in clear violation of the requirement posed by sub-section 2(c).



<sup>5</sup> Technically, malapportionment is the act to apportion constituencies unequally. Its outcome is disparity which may get worse over time. For ease of discussion, this report will use “malapportionment of constituencies” to mean “disparity in constituency electorate size”.

<sup>6</sup> Data organising the same voters used in the delimitation exercise by existing constituencies is unfortunately not readily available, hence, the need for its proxy.

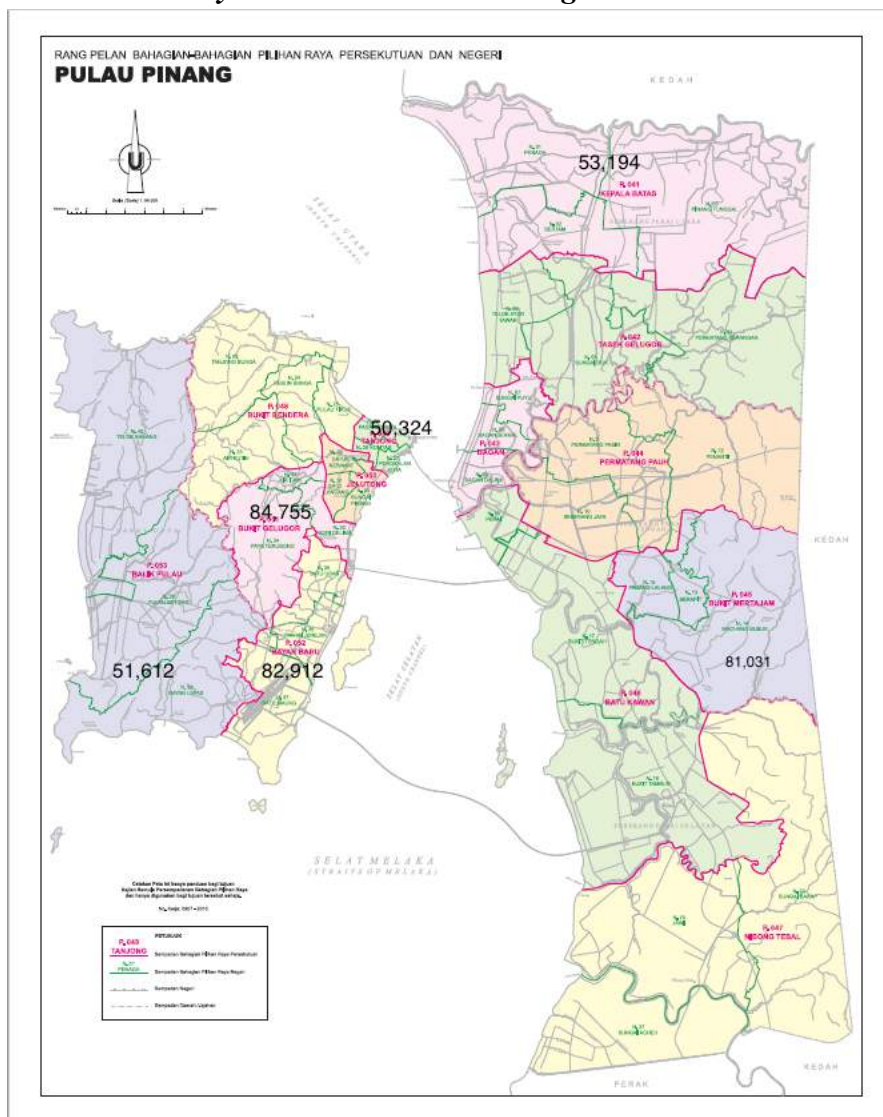
Chart 4 shows the state of malapportionment from the result of the last delimitation exercise carried out in 2003. Then, Tanjong’s electorate size was slightly above the state average, underlining the demographic movement from the heart of Georgetown to the suburbs, a change that should have informed the EC’s delimitation proposal.



We must remember that over-representation of rural constituencies can be constitutional only if the constituencies have large geographical areas. If landmass information is provided in the Delimitation Notice or the Recommendations for Penang, the constitutional merit for over-representation of any constituencies can be easily assessed.

To overcome this informational gap, the electorate sizes for the three biggest and three smallest constituencies are indicated on Map 5. The electorate sizes of P053 Balik Pulau (51,612) and P041 Kepala Batas (53,194) seem justified given their landmass, however the same cannot be said about the electorate of P049 Tanjung (50,324). The failure of the EC in correcting the unwarranted over-representation of P049 Tanjung is telling.

**Map 5** *Proposed Electorate Size and Area for Most Under-sized and Over-sized Parliamentary Constituencies in Penang*



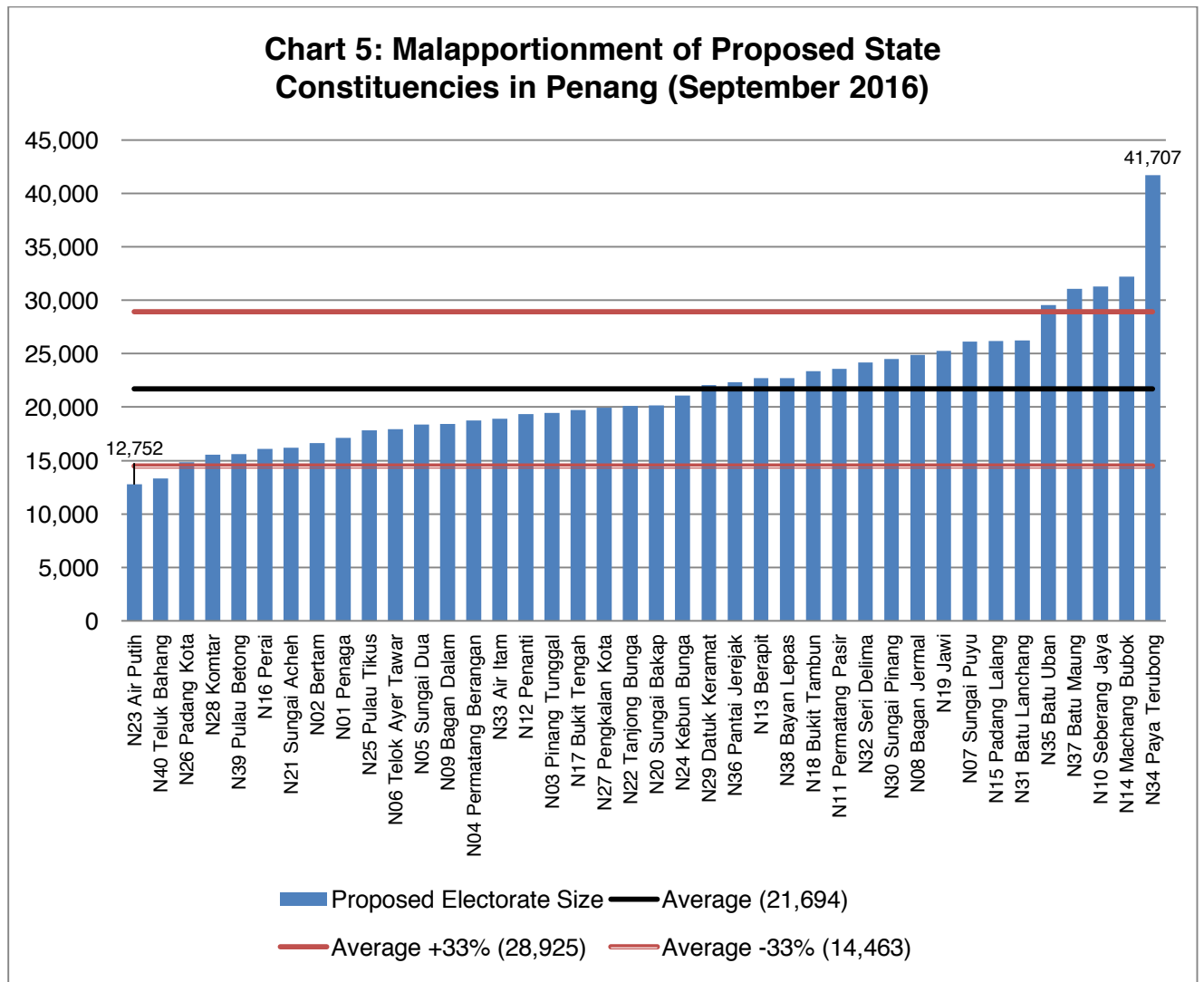


### 3.2 State Constituencies

Table 3 lists all proposed state constituencies in Penang and their electorate sizes. Chart 5 sorts them in ascending order. The largest, 41,707 (N34 Paya Terubong) is 3.27 times the smallest, 12,752 (N23 Air Putih, incidentally the former's neighbour). Five out of Penang's 40 state constituencies are larger than the state's average by more than 1/3 while two other constituencies are smaller than the average by more than 1/3. This means the EC's recommendations would have been outright unconstitutional if sub-section 2(c) was not amended in 1973. The EC should have proposed constituencies with electorate size close to the state average of 21,694.

**Table 3: The Proposed State Constituencies in Penang and Their Electorate Sizes**

Constituency	Electorate Size	Constituency	Electorate Size
N01 Penaga	17,133	N21 Sungai Acheh	16,201
N02 Bertam	16,621	N22 Tanjung Bunga	20,126
N03 Pinang Tunggal	19,440	N23 Air Putih	12,752
N04 Permatang Berangan	18,771	N24 Kebun Bunga	21,064
N05 Sungai Dua	18,361	N25 Pulau Tikus	17,825
N06 Telok Ayer Tawar	17,932	N26 Padang Kota	14,853
N07 Sungai Puyu	26,115	N27 Pengkalan Kota	19,927
N08 Bagan Jermal	24,860	N28 Komtar	15,544
N09 Bagan Dalam	18,414	N29 Datuk Keramat	22,034
N10 Seberang Jaya	31,253	N30 Sungai Pinang	24,480
N11 Permatang Pasir	23,583	N31 Batu Lanchang	26,258
N12 Penanti	19,335	N32 Seri Delima	24,149
N13 Berapit	22,681	N33 Air Itam	18,899
N14 Machang Bubok	32,189	N34 Paya Terubong	41,707
N15 Padang Lalang	26,161	N35 Batu Uban	29,541
N16 Perai	16,064	N36 Pantai Jerejak	22,321
N17 Bukit Tengah	19,746	N37 Batu Maung	31,050
N18 Bukit Tambun	23,334	N38 Bayan Lepas	22,722
N19 Jawi	25,273	N39 Pulau Betong	15,595
N20 Sungai Bakap	20,139	N40 Teluk Bahang	13,295



Like Chart 2, Chart 6 presents the proposed state of malapportionment of state constituencies as deviations from the state average and sorted by constituency code to allow for comparison over time.

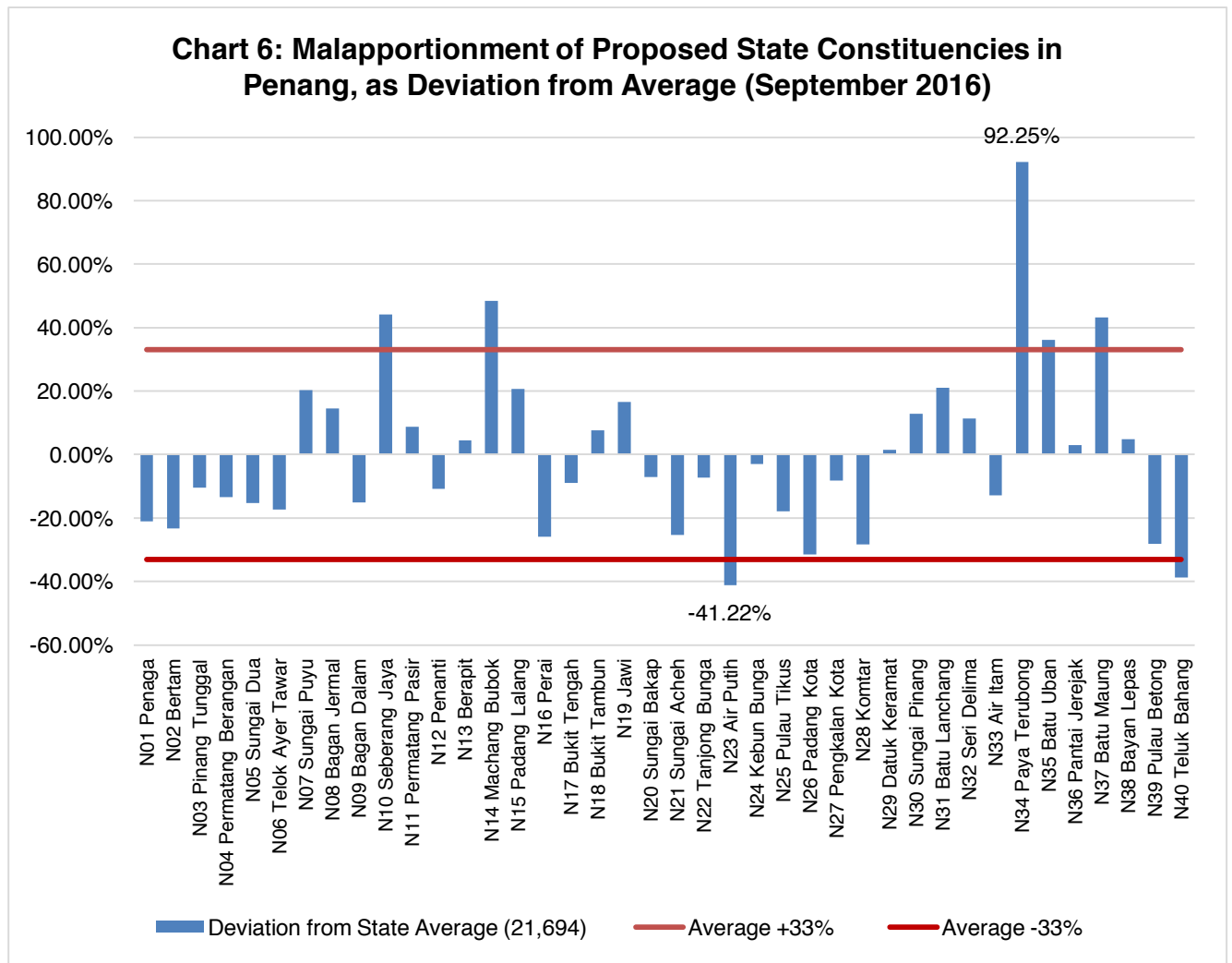


Chart 7 shows the state of malapportionment during the last general election in 2013, which can serve as proxy to the current state of malapportionment without delimitation. Shockingly, Paya Terubong, already the largest over-sized constituency then, is further extended to include even more areas and voters and Air Putih, already the smallest constituency, ceded a portion of its constituency to make it even smaller. Hence the largest state constituency, has been recommended by the EC to grow even more over-sized and the smallest to grow even more under-sized. Then exceeding the state average by 87.41% in 2013, Paya Terubong now supersedes it by a whopping 92.25%. Malapportionment is brazenly worsened overall instead of being mitigated. The next smallest constituencies like N10 Seberang Jaya, N14 Machang Bubok, N35 Batu Uban and N37 Batu Maung remained hugely under-represented despite boundary changes in the redelimitation exercise.

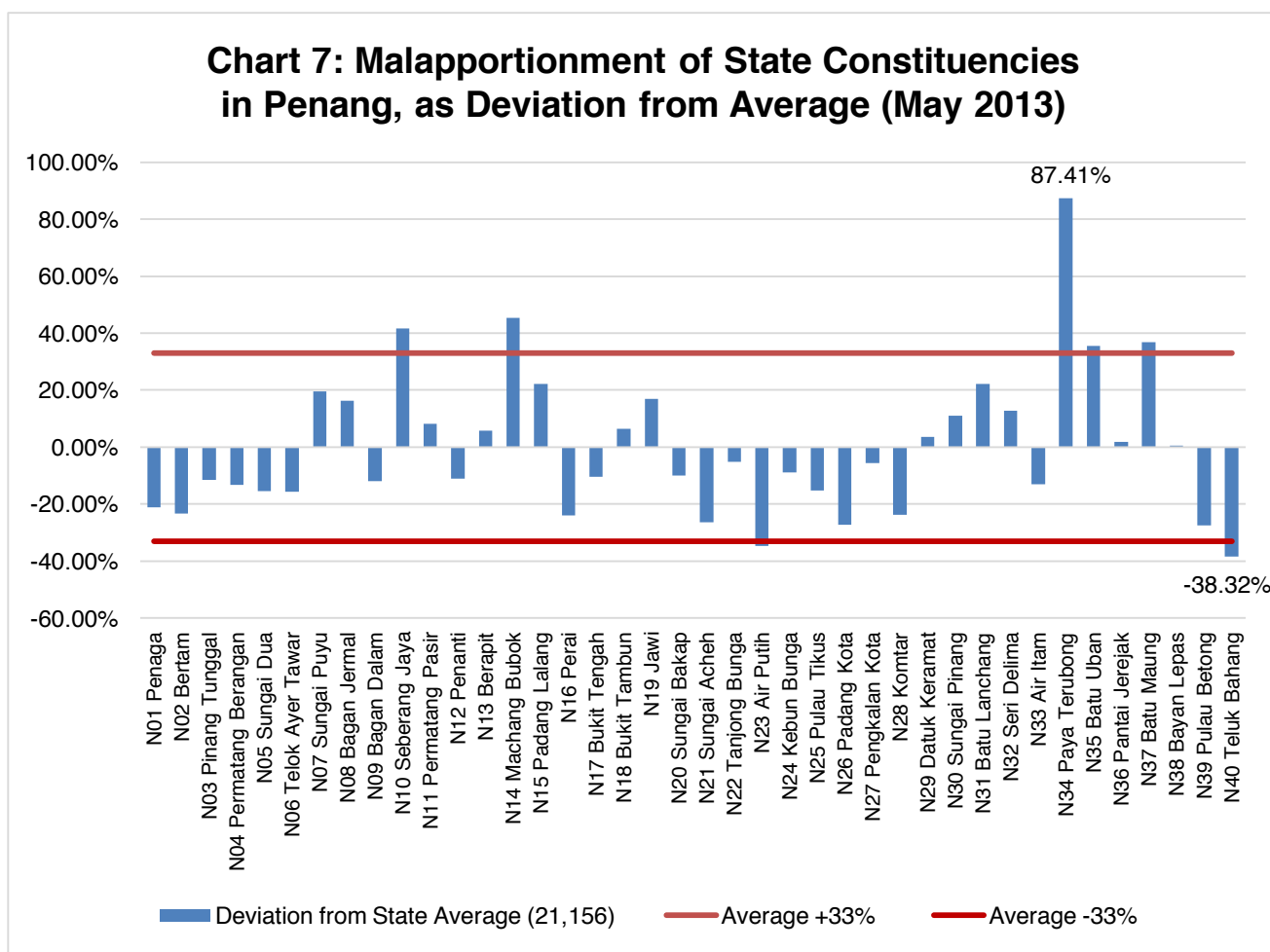
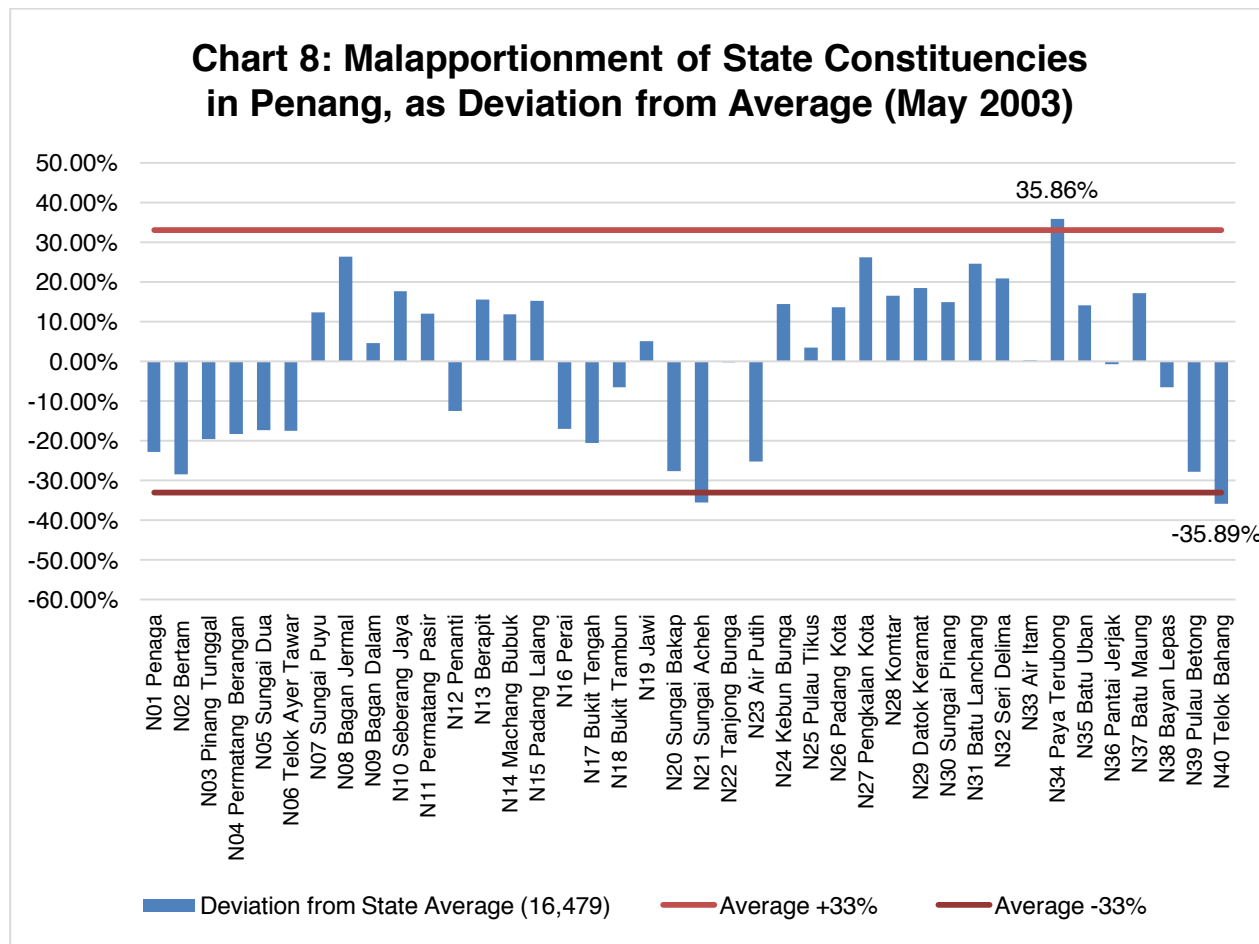


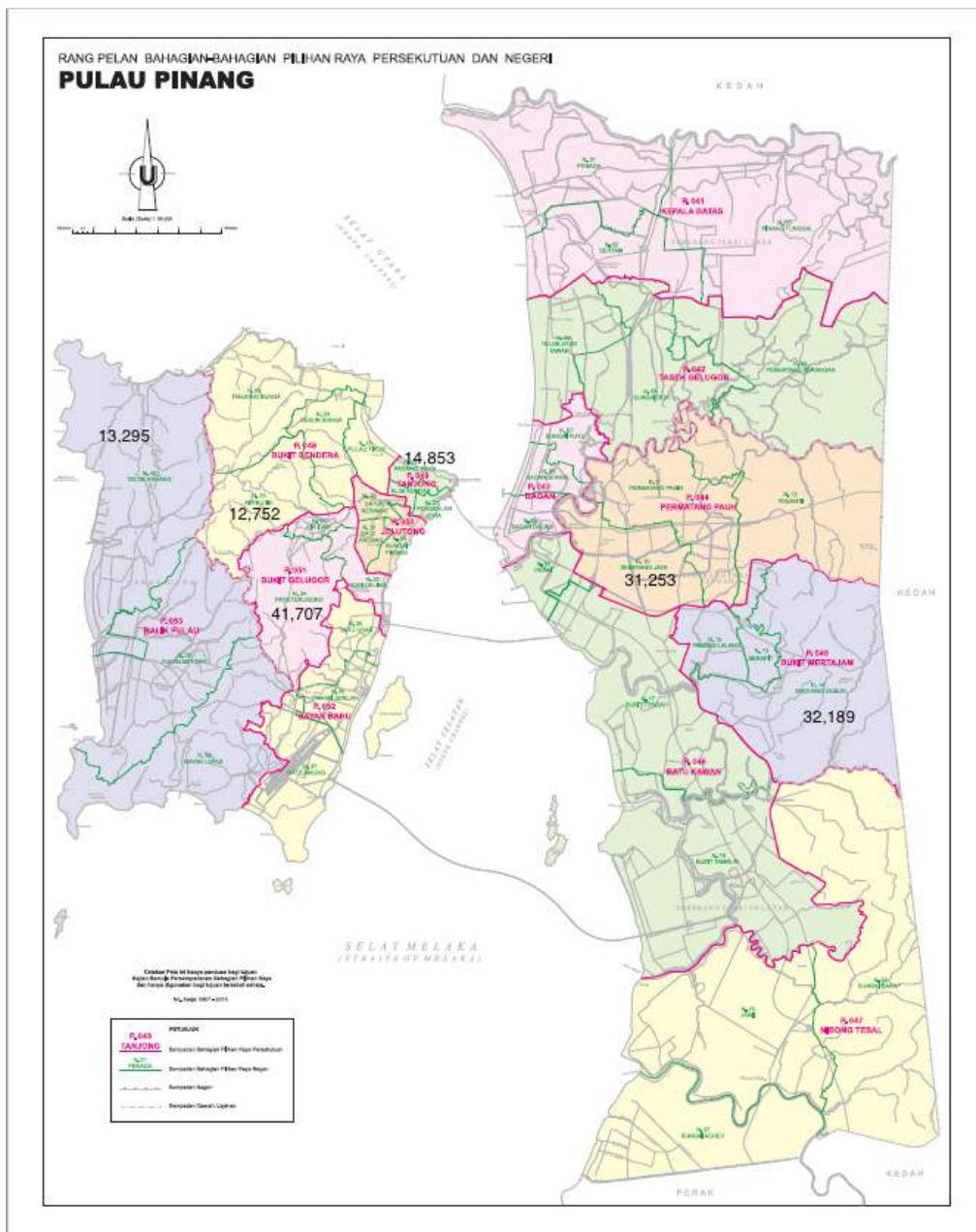
Chart 8 shows the state of malapportionment for state constituencies in 2003 as the outcome of the last redelimitation exercise. As in now, the EC then did not adhere to the “approximately equal” requirement posed by sub-section 2(c). To illustrate how severe malapportionment has worsened since, the largest-to-smallest ratio then was 2:12, much lower than 3.27 the EC currently proposes.



To overcome the lack of landmass information necessary for assessing the merit of area-based over-representation, Map 6 puts the size of electorate for the three smallest and three largest constituencies for an intuitive comparison by looking at their areas on the map. It is obvious that while Teluk Bahang (13,295 voters) occupies quite a large area, the same is not true for Air Putih (12,752 voters) and Padang Kota (14,863 voters).

On the other hand, some constituencies with larger landmass are proposed by the EC to have excessively large electorates, such as N34 Paya Terubong (41,707) and N14 Machang Bubok (32,189). This proves that the EC does not believe larger geographical area in Penang necessarily experiences “the greater difficulty of reaching electors in the country districts and the other disadvantages facing rural constituencies”, the ground for area-based over-representation stipulated in sub-section 2(c).

**Map 6 Proposed Electorate Size and Area for Most Under-sized and Over-sized State Constituencies in Penang**



## 4 Failure in the “Maintenance of Local Ties” for Constituencies in Penang

As explained in 1.2.3, to minimize the subjective nature in identifying the instances of failure in the “maintenance of local ties”, which may or may not be deliberate acts of gerrymandering, this report will focus on three types of non-compliances:

1. Constituencies spanning across more than administrative district
2. Constituencies group together local communities without common interests, even though these communities are adjacent and fall within the same local authority jurisdiction.
3. Partitioning of local communities or neighbourhoods by electoral boundaries.
4. Mapping errors by the EC that leave out some coastal areas from the electoral map

### 4.1 Constituencies spanning across multiple districts

The state constituencies which span across more than one administrative district are shown with red circles in Map 7.

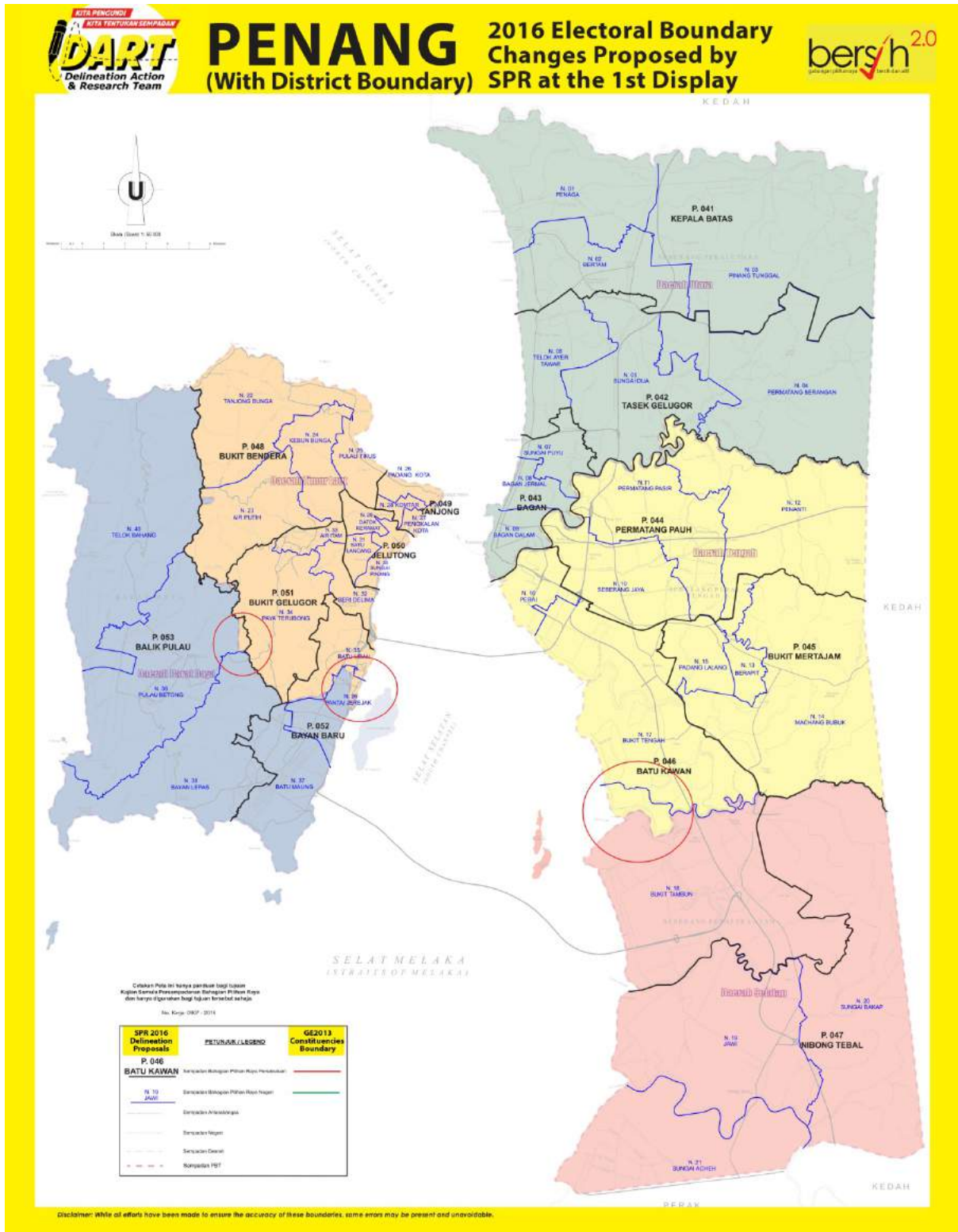
Three proposed parliamentary constituencies: P046 Batu Kawan, P052 Bayan Baru, and P053 Balik Pulau span across two administrative districts. (Table 4)

P046 Batu Kawan contains two state constituencies which are fully located in the district of Seberang Perai Tengah -- N16 Perai and N17 Bukit Tengah -- and one state constituency that spans across both the districts of Seberang Perai Tengah and Seberang Perai Selatan. While it may be inevitable for a parliamentary constituency to span across two districts to avoid severe malapportionment, it is certainly not necessary for state constituencies to do so. The proposed boundary of N18 Bukit Tambun can and should be adjusted southward so that N17 Bukit Tengah should cover the entire southwestern corner of Seberang Perai Tengah. (Map 8)

**Table 4** *List of Parliamentary and State Constituencies Spanning Across Local Authority Jurisdictions*

No	Parliamentary Constituency	State Constituency	S. Perai Tengah	S. Perai Selatan	Barat Daya	Timur Laut	No. Local Authorities
1	P046 Batu Kawan	N16 Perai	X				1
	P046 Batu Kawan	N17 Bukit Tengah	X				1
	P046 Batu Kawan	N18 Bukit Tambun	X	X			2
2	P052 Bayan Baru	N36 Pantai Jerejak			X	X	2
3	P053 Balik Pulau	N39 Pulau Betong			X	X	2

Map 7 State Constituencies That Span Across Two Administrative Districts in Penang



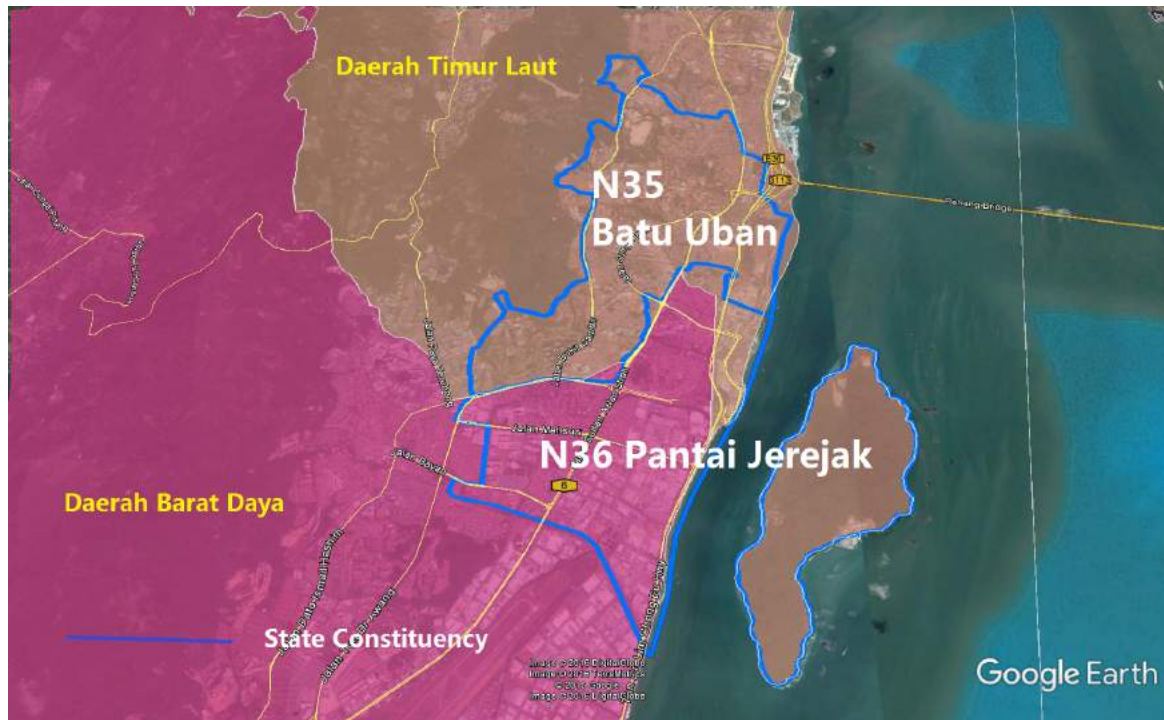


**Map 8** *N18 Bukit Tambun: One State Constituency Spanning across Two Administrative Districts*



The other two parliamentary constituencies have one state constituency that spans across the districts of Timur Laut and Barat Daya on the mainland. Pulau Jerejak is part of the Northeast District. Despite the connection of its name, N36 Pantai Jerejak should follow the administrative district boundary and concede Pulau Jerejak and the small strip on the main island to N35 Batu Urban. (Map 9) In the case of N39 Pulau Betong (Map 10), the little strip of the Northeast District that is included (circled in white) is supposed to be forest land with legally no human settlement. As the existing constituency boundary follows exactly the district boundary, it is puzzling why the EC proposes to cross the boundary.

**Map 9** *N36 Pantai Jerejak Crossing Administrative District Boundary*



**Map 10** *N39 Pulau Betong Crossing Administrative District Boundary*



## 4.2 Arbitrary combination of local communities without common interests

Even when a constituency falls fully within the area of a local authority or an administrative district, its electorate must have meaningful local ties. The EC cannot arbitrarily group strangers or communities with little common interests into one constituency. Unfortunately, at least three cases are found in the EC's delimitation proposal for Penang.

### 4.2.1 N34 Paya Terubong

The excessively over-sized state constituency of N34 Paya Terubong (Map 11) currently has two unconnected communities, one in the Paya Terubong area (circle A) and the other in the Bukit Jambul area (circle B). Instead of removing B to reduce its electorate size, the EC proposes to add some parts of Bukit Gambir (circle C) which is currently part of N35 Batu Uban. The EC's proposal has therefore both worsened the malapportionment on one hand and broken up local ties on the other, violating both Sub-sections 2(c) and 2(d) of the Thirteenth Schedule of the Federal Constitution.

**Map 11** *Arbitrary Grouping of Three Distinct and Distant Communities in N34 Paya Terubong*



4.2.2 N24 Kebun Bunga

From Map 12, it seems that N24 Kebun Bunga is formed by grouping communities with rather distinct interests and to a large extent separated by the hill. The middle class community west of Jalan Scotland and Jalan Utama surrounding the Turf Club (circle B) is closer to their neighbours across Jalan Scotland (in N29 Datok Keramat) than the working class community in Rifle Range (circle A) which is in turn closer to their neighbours alongside Jalan Air Itam (in N23 Air Putih). These two communities are distant from the largely working class community near Fettes Park (circle E), with two smaller communities of Kampung Air Terjun (circle C) and Hong Seng Estate (circle D) in between them. They are in turn separated by the hill from the fragment of Taman Seri Setia (circle F) that should have been joined with their immediate neighbours in N22 Tanjung Bunga. The proposed electoral boundary at Jalan Brook also breaks local ties by taking out a small part (circle G) from the larger community in B. It seems that the "maintenance of local ties" consideration required by Sub-section 2(d) was completely ignored in the previous redelimitation exercise and continues to be so in this exercise.

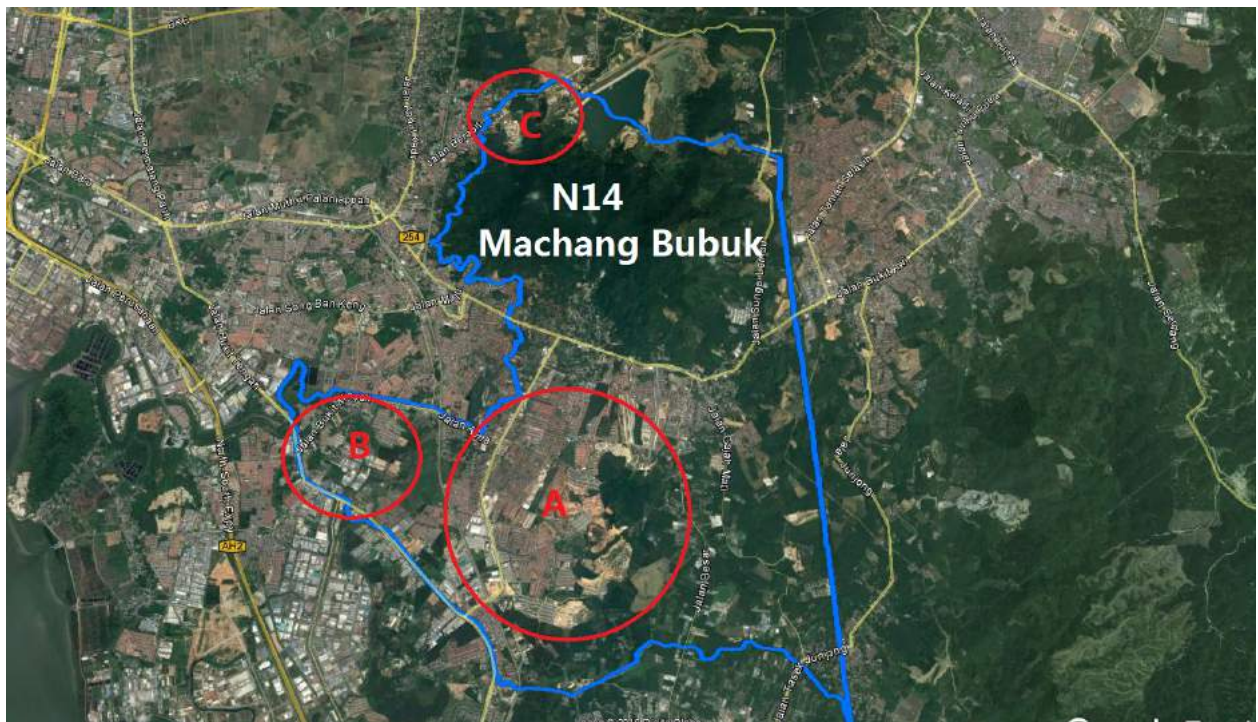
**Map 12** *Arbitrary Grouping of Distinct and Distant Communities in N24 Kebun Bunga*



### 4.2.3 N14 Machang Bubuk

The second largest state constituency N14 Machang Bubuk (Map 13) currently consists of two communities, the core area of Machang Bubuk (circle A) and a small segment of the Bukit Minyak area (circle B). Given its existing under-representation, one would expect the EC to take voters out of the constituency, perhaps, by giving the Bukit Minyak part to neighbouring N17 Bukit Tambun. However, the EC proposes now to bring in more voters from a fragment of the current N13 Berapit (circle C), which is separated from A by hill. Again, the EC has disregarded both the requirements of equal apportionment ("approximately equal") and "maintenance of local ties" stipulated by Sub-sections 2(c) and 2(d) where N14 Machang Bubuk is concerned.

**Map 13**      *Arbitrary Grouping of Communities in N14 Machang Bubuk*

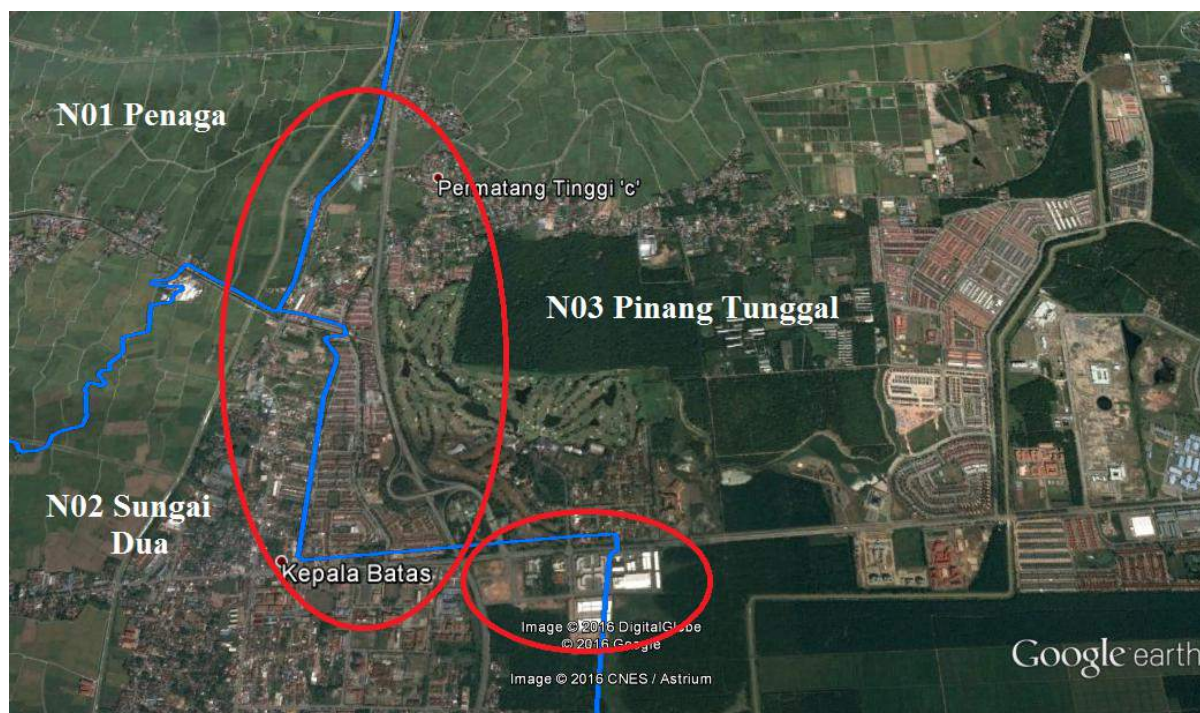


### 4.3 Partitioning of Local Communities or Neighbourhoods

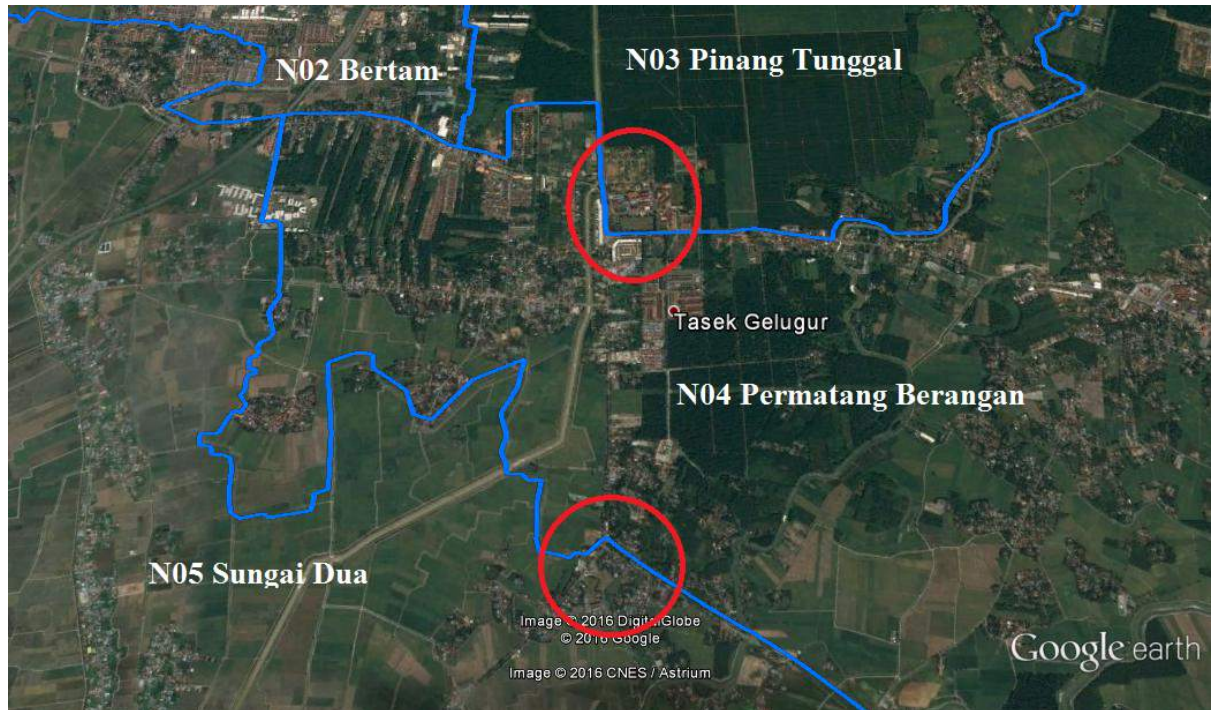
Sub-section 2(d) requires “maintenance of local ties” and this is violated when local communities or neighbourhoods are partitioned by electoral boundaries. Here we identify 19 suspected cases of such violations, some of which are quite certain. The areas where local ties might have been severed or compromised are circled in red. This preliminary assessment of ours is certainly constrained by the fact that the EC does not provide detailed maps in display, and we have to therefore rely on the best available data.

A final note on local community partition: While roads are commonly used as boundaries between constituencies, N25 Pulau Tikus Assemblyperson Yap Soo Huey argues that people living on both sides of the same road may face similar problems and it is absurd that they turn to different elected representatives. In considering roads as constituency boundaries, it is important to ask if the roads actually divide or connect people. While highways make good sense to be boundaries, demarcating constituencies using roads in housing estates may just break up local ties. Instead of conveniently looking for demarcating lines, the EC should instead see local communities or neighbourhoods as integral blocks and build constituencies by grouping blocks with common interests.

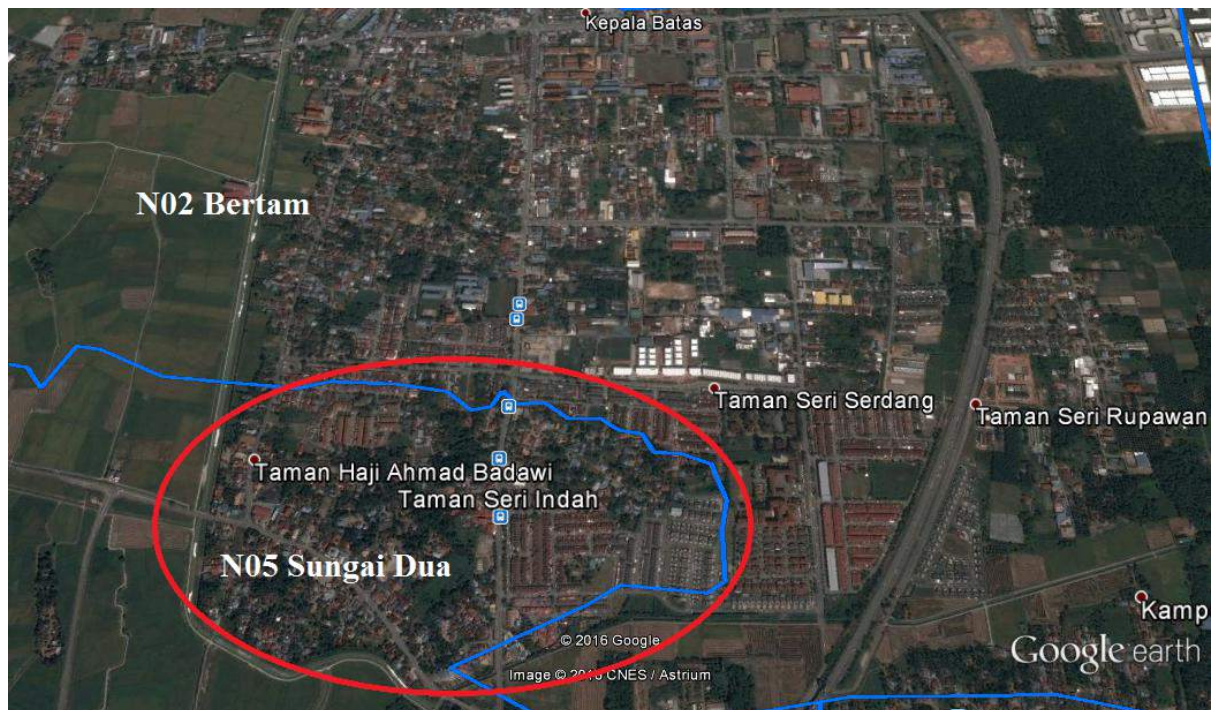
**Map 14** Suspected partition of local community in N01 Penaga, N02 Bertam and N03 Pinang Tunggai



**Map 15** Suspected partition of local community in N03 Pinang Tunggal, N04 Permatang Berangan dan N05 Sungai Dua



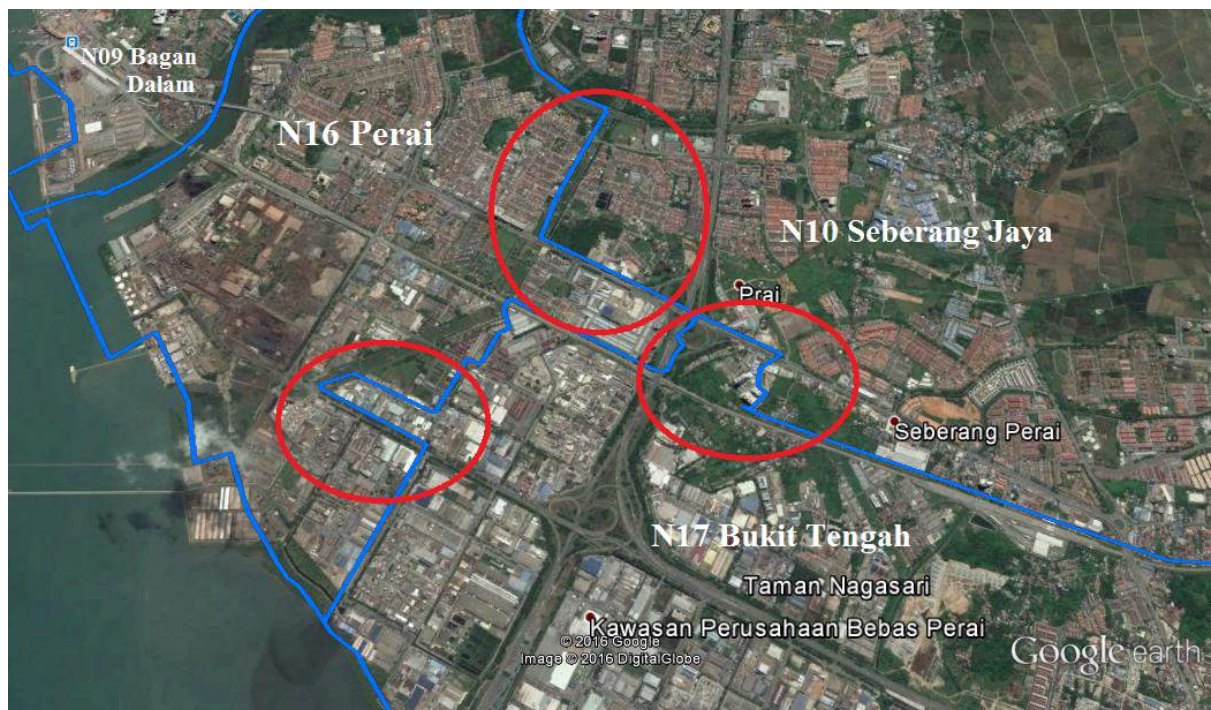
**Map 16** Suspected partition of local community in N02 Bertam and N05 Sungai Dua



**Map 17** Suspected partition of local community in N06 Telok Ayer Tawar, N07 Sungai Puyu and N08 Bagan Jermal



**Map 18** Suspected partition of local community in N10 Seberang Jaya, N16 Perai and N17 Bukit Tengah





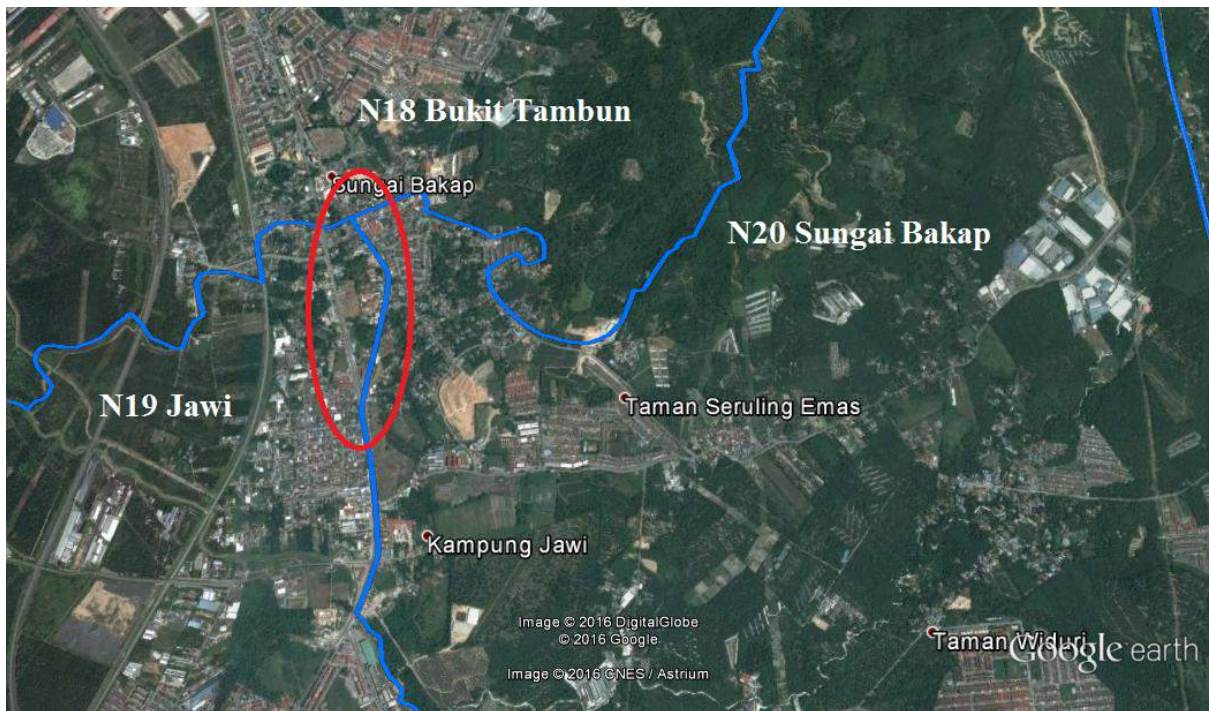
**Map 19** Suspected partition of local community in N11 Permatang Pasir, N12 Penanti, N13 Berapit, and N14 Machang Bubuk



**Map 20** Suspected partition of local community in N11 Permatang Pasir, N12 Penanti, N13 Berapit, N14 Machang Bubuk and N18 Padang Lalang



**Map 21 Suspected partition of local community in Bukit Tambun, N19 Jawi and N20 Sungai Bakap**



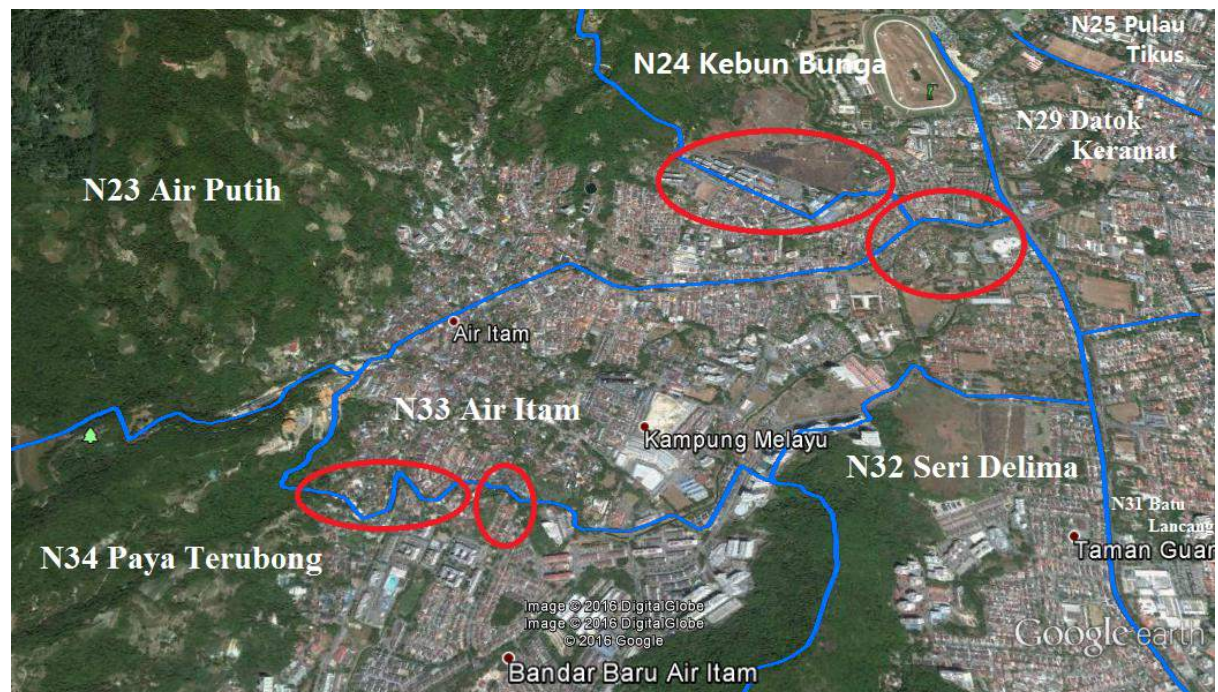
**Map 22 Suspected partition of local community in N22 Tanjung Bunga, N24 Kebun Bunga and N25 Pulau Tikus**



**Map 23 Suspected partition of local community in N24 Kebun Bunga and N25 Pulau Tikus**



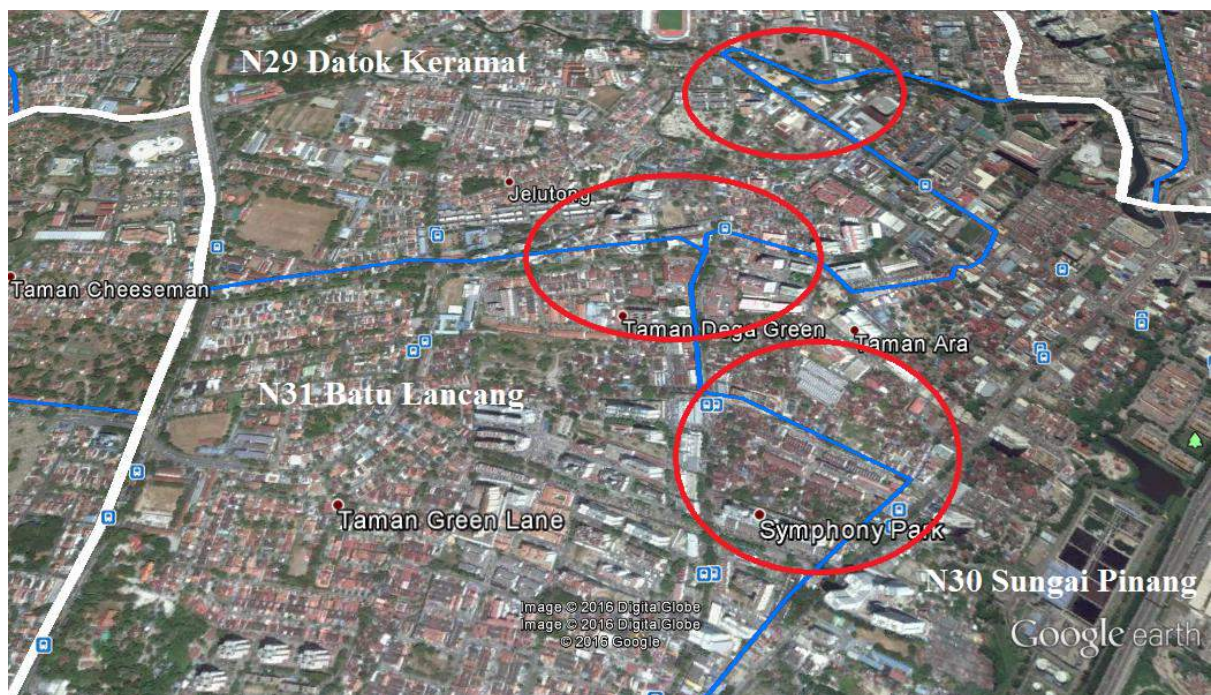
**Map 24 Suspected partition of local community in N23 Air Putih, N24 Kebun Bunga, N33 Air Itam and N34 Paya Terubong**



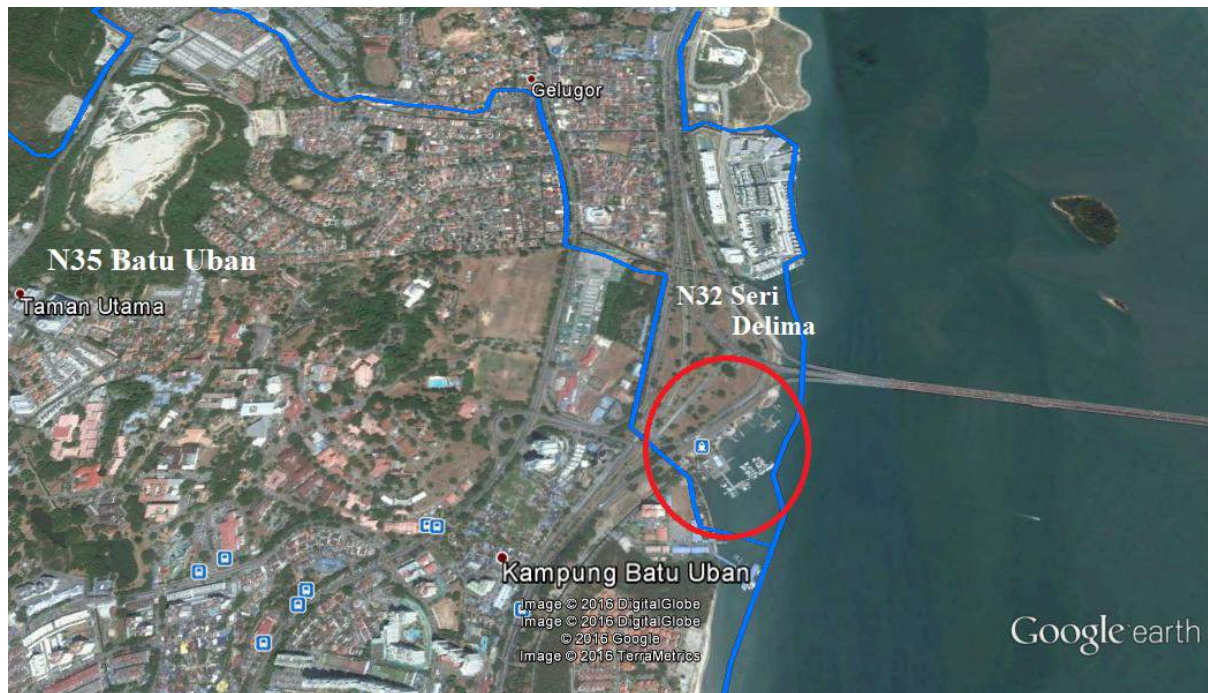
**Map 25** Suspected partition of local community in N26 Padang Kota, N27 Pengkalan Kota, N28 Komtar and N29 Dato Keramat



**Map 26** Suspected partition of local community in N29 Datok Keramat, N30 Sungai Pinang and N31 Batu Lancang



**Map 27** Suspected partition of local community in N32 Seri Delima and N35 Batu Uban



**Map 28** Suspected partition of local community in N34 Paya Terubong and N35 Batu Uban (North)



**Map 29 Suspected local community partition in N34 Paya Terubong and N35 Batu Uban (South)**



**Map 30 Suspected local community partition in N35 Batu Uban and N36 Pantai Jerejak**



**Map 31** Suspected local community partition in N37 Batu Maung and N38 Bayan Lepas



**Map 32** Suspected local community partition in N39 Pulau Betong and N40 Telok Bahang



## 5 Overall Assessment

The delimitation exercise is meant to correct deviation and distortion from equal apportionment and representative boundaries. As the exercise can only be carried out again at least eight years after the completion of the previous exercise in normal circumstances as per Article 113(3) of the Federal Constitution, failure to correct the deviations and distortions may not just persist, but be amplified by demographic and developmental changes for another eight years.

The EC's recommendations to delimit the constituencies in Penang, as per the Delimitation Notice and the Recommendations for Penang published on September 15, 2016, have failed to achieve the above.

### 5.1 Procedural Defects

Procedurally, the EC has failed to provide sufficient information for the stakeholders – state government, local authorities and 100 or more affected voters – to competently assess the recommendations and submit objecting representations. With the information given, it is impossible for a voter living near an electoral boundary on the map to know for certain which constituency she will belong to. The stakeholders are denied this information:

- (a) A constituency-level map with necessary details like local authority boundaries, polling district boundaries, and land use information.
- (b) An electoral roll for the proposed new constituencies. Alternatively, a search facility which provides both the new and old parliamentary and state constituencies of a voter.
- (c) Landmass information for every parliamentary and state constituency in the state.

### 5.2 Substantial Defects

Substantially, the EC's recommendations have violated the requirements of sub-sections 2(c) and 2(d) of the Thirteenth Schedule.

The largest-to-smallest electorate ratio is 1.68:1 for proposed parliamentary constituencies and 3:27:1 for proposed state constituencies. *As many as five proposed state constituencies are larger than the state average by 1/3 and two others are smaller than the state average by 1/3 (see Table 6).*

Such Malapportionment would be outright unconstitutional if the sub-section 2(c) was not amended in 1973. While some of the oversized constituencies like Balik Pulau and Teluk Bahang are qualified for area-based over-representation, others like Tanjong, Air Putih and Padang Kota do not have vast landmass as the ground.



The EC did nothing to change the under-representation problem in Paya Terubung, Machang Bubok, Seberang Jaya, Batu Maung, and Batu Uban. Even more shockingly, the EC made the incomprehensible moves to cut out a part of Air Putih (already over-represented) and further extend Paya Terubung (already the most under-represented constituency in 2013 General Election and 2003 redelineation).

Out of 40 state constituencies, only approximately two are left untouched from the proposed redelineation: N09 (Bagan Dalam) and N21 (Sungai Acheh). Despite making extensive boundary changes, the EC not only has failed to mitigate existing malapportionment, but worsened it by making some of them like Paya Terubong much larger. The EC has therefore abdicated its constitutional mandate.

**Table 5** *Malapportionment of Parliamentary and State Constituencies in Penang*

Constituencies	Largest Electorate	Smallest Electorate	Largest to Smallest Ratio	Number of Constituencies			
				Within +/- 1/3 from average	Larger than average by >1/3	Smaller than average by >1/3	Total
<b>Parliamentary</b>	84,755	50,329	1.68:1	13	0	0	13
<b>State</b>	41,707	12,752	3.27:1	33	5	2	40

Where the “maintenance of local ties” requirement as posed by sub-section 2(d) is concerned, many violations have been found in the EC recommendations. Amongst the proposed parliamentary and state constituencies, at least three parliamentary constituencies and three state constituencies span across two administrative districts. While one case seems to be purely a matter of mapping errors involving forest lands, the others place voters from different administrative districts under the same constituency or polling district. We also have at least an instance (Paya Terubong) where voters are from the same administrative district but with little or no local ties being arbitrarily placed in the same constituency. We have discovered many suspected cases of local communities being partitioned by electoral boundaries, showed in the maps above and involved in some way all but two state constituencies: N09 Bagan Dalam and N21 Sungai Acheh.

The extent of non-compliance to sub-sections 2(c) and 2(d) raises a legitimate question: if fulfilling the “approximately equal” and the “maintenance of local ties” requirements (as per its constitutional mandate) is not the goal guiding the EC, what motivation drives the EC into proposing such labourious boundary changes?

This raises the next legitimate question: Is this related to the seemingly deliberate inadequacy of information which frustrates the stakeholders’ ability to properly examine the EC’s recommendations and raise objections within 30 days?

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