

An Assessment

Top-Up Women- Only Additional Seats (TWOAS) for Penang and Alternative Solutions

28 JULY 2021

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Introduction

The Penang state government is currently addressing the gross underrepresentation of women in the State Legislative Assembly (DUN). We, Tindak Malaysia, would like to **commend the efforts** of the government in addressing the issue. The mechanism that is being explored is Top-Up Women-Only Additional Seats (thereafter, we refer as TWOAS). We define TWOAS as a conditional hybrid of reserved seat and quota candidate system approach. **As TWOAS is built on the mixed member majoritarian electoral system, we, as an electoral reform advocacy group, take a special interest on this topic.** In this short document, we will explore briefly why women political representation is low, examining different approaches to improve political (at DUN level) representation for women and our assessment of TWOAS. **Our goal is that Penang will be able to implement a durable solution for women representation that will transcend the current discourse of the 30% threshold of women representation.**

Key Causes of Poor Women Representation in DUNs/ Parliament

1. Electoral System

We should accept that our first past the post (FPTP) electoral system serves as a deterrent for women representation. Under the FPTP system in Malaysia, constituencies are divided among the various component political parties. The component parties can only field a limited number of candidates, and this will exclude most women candidates.

Most of the male incumbent candidates are also reluctant to give up their seats to women candidates. With a combination of a patriarchal society and the present FPTP system, political parties tend to field candidates who are winnable or widely accepted and these candidates are primarily men. This situation manifested clearly in evolving women representation in Penang DUN where there was one growth spurt in women representation (2008 to 2013) for the years of 2008 to 2021. Since 2013, women representation in Penang remains stagnant at 15% (6 women ADUNs). If one examines the seats where Penang Women ADUNs are found

(2008 - 2021 cycle), they are usually found in seats where the previous male candidates of the party were fielded. Examples include DUN seats in Penang such as Berapit, Pulau Tikus, Padang Lalang, Sungai Pinang, Permatang Berangan and Seri Delima.

Moreover, even if a political party adopts a voluntary quota of 30 percent women candidates, the FPTP system cannot guarantee a 30 percent women representation. This is because women candidates are not assured of electoral victory, especially if the seats were to experience close fights.

However, two states like Selangor and Perlis are close to achieving 30% women representation in their DUNs despite the same principles of FPTP being used for their state elections. Selangor Women Representation in DUN shot up from 14.3% in 2008 to 23.2% in the current DUN (2021) (the highest rate was 26.8% in 2013). In addition, in 2013, 14 out of 56 ADUNs in Selangor were women of which more than half of these women representatives are new candidates. Women representation in the Perlis DUN went from 0% women representation in 2008 to 26.7% in 2018. Currently, Perlis has the highest women representation in DUN among all states in Malaysia. This was possible as male candidates on major parties (who can field winnable candidates) were replaced with new women candidates.

We reaffirm that FPTP is a deterrent to women's representation in the DUNs. However, Selangor and Perlis have shown a different way forward in this electoral system. Hence, this will broaden the discussion on potential solutions.

2. Structural Challenges and Obstacles

Women Representatives face multiple challenges when serving their role in DUNs or in Parliament (Azizah, 2002). Following are the challenges:

1. Dual burden of responsibility of serving constituency and domestic household. While younger generations have different attitudes towards women in professional and household spheres, political leaders of major parties tend to be in middle age and these delays change in views towards women candidates/representatives.
2. Political parties having conservative views and/or not enough resources to train women leaders and would be women candidates.

3. Hostile environment either at Parliament or DUN for women representatives as disparaging remarks or offensive jokes are being uttered. **This reinforces the view that politics is male dominated realm. Moreover, the perception of politics is dirty and riddled with hypocrisy deters women from considering the political sphere.**

3. Insufficient facilities to support Women Elected Representatives

Women representatives not only bear the responsibility of serving their constituents but also shoulder the weight of domestic responsibility (i.e., childcare) at the same time. The lack of such childcare facilities will deter most women from considering the role of an elected representative in DUNs or Parliament. After the last change of federal government in 2018, Parliament finally took steps to institute childcare centres for women parliamentarians.

In short, when we go through some major causes of poor women representation, there is neither incentive or conducive environment for women candidates to be considered or trained properly. This leads to the next part of the discussion, which is to consider the various approaches to increase women representation.

Approaches to Increase Women Political Representation

1. Electoral System Change

As mentioned before, our FPTP system is no friend to the cause of women representation in Malaysia. The countries that have the highest women representations in the world have an electoral system with some element of list proportional representation (List PR). When an electoral system has a List PR in it, political parties have more room to appoint women candidates and more opportunity is accorded to voters to choose more women candidates.

Using a closed list PR (CLPR), each political party is required to present a list of candidates to the voters. **Political parties will choose and rank the candidates and**

once the list is finalised for an election, the candidate list cannot be tampered with by the respective political parties or voters.

Voters vote for the party or the list, not for the individual candidates. Within this realm, a political party can voluntarily adopt a zipper style candidate list (i.e., woman-man-woman-man order). If Malaysia has a CLPR to complement our FPTP, we can have nationwide or statewide multi member constituencies for the CLPR elections.

Since parties receive seats based on vote share and the zipper list is implemented, the CLPR will greatly boost women representation in Malaysia. Using the Mixed Member Majoritarian (MMM) electoral system, TWOAS utilises electoral system change to advance women's political representation. We acknowledge that there are criticisms of using two different electoral systems which may result in two different castes of representation. This can lead to concerns such as women representatives in TWOAS having less responsibilities or being less influential. We believe such downsides can be overcome by one major benefit – this approach facilitates the shift of focus from constituency services to policy making.

Tindak Malaysia will advocate for the mixed-member proportional (MMP) electoral system as the electoral platform (for the longer term) to increase women representatives in legislative halls.

However, we do acknowledge that electoral system change requires a more substantive discussion. Such changes may serve a potential solution for the women's representation cause.

2. Reserved Seats and Quotas (with an Assessment on TWOAS)

There are three general categories for the quota system – reserved seats, legislated quotas, and voluntary quotas. Firstly, reserved seats are a specified number of seats that will be allocated for certain politically underrepresented communities such as women.

Secondly, legislated candidate quotas are constitutional or electorally enforced requirements for candidacy. The legislated quota can mandate a zipper or ranking order for the candidate list to enhance women representation.

TWOAS, which is being explored in Penang, is a conditional¹, hybrid approach based on reserved seats (for women only) and potential legislated quota (for specific women backgrounds). A voluntary quota exists when a political party opts for an internal gender quota for the candidacy list. Tindak Malaysia supports the concept of voluntary quotas as political parties are sending strong signals to the voters.

We must acknowledge that gender quotas are highly effective tools to increase women's representation in any given country. **A combination of a closed-list PR and gender quotas are assured paths towards attaining the 30 percent women representation goal.** We are aware of General recommendation No. 25: Article 4, paragraph 1, of the Convention (Convention on the Elimination of All Forms of Discrimination against Women -CEDAW²) (temporary special measures) which calls upon “States parties should aim to accelerate the equal participation of women in the political, economic, social, cultural, civil or any other field (General Recommendations adopted by the Committee of the Elimination of Discrimination of Women, 2004).” We believe TWOAS fits into the concept of temporary measure. At the same time, we must acknowledge these measures include “a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems (General Recommendations adopted by the Committee of the Elimination of Discrimination of Women, 2004).” This opens a broader discussion on approaches to elevate women's representation.

We must now in turn examine what are the reservations or criticisms of adopting of the quota concept.

Among the main criticisms of the 30 percent gender quota is that it is against the principle of equal opportunity. Moreover, it can be viewed as being undemocratic since it will create the

¹ TWOAS is only activated when a given election using standard First Past the Post system fails to yield 30% women representation for the Penang DUN level at a given election.

² Malaysia acceded to CEDAW in 1995. As a signatory, Malaysia is reviewed by UN every four years

perception that women must always be given preference over men. Quotas will only address the symptoms of poor women representation in Malaysia, but it does not address the root causes of poor women representation.

Furthermore, the success of legislated quotas or similar measures rests on enforcement. Unfortunately, Malaysia has performed poorly in enforcing the 30 percent women representation requirement, especially in local councils. This issue transpired in the state of Selangor.

In 2020, the women's wing of ruling Pakatan Harapan of Selangor welcomed the Menteri Besar's call to implement a 30 percent women councillors' representation (Chacko, Gong, & Leong, 2021). Considering the state government is the body who is appointing the councillors, implementation of such policy would have been straightforward. Despite this, only three councils out of 12 in Selangor met the 30 percent target for the 2021-2022 term. In short, the failure to follow through a simple policy guideline has done a disservice to women's representation in Selangor.

Tindak Malaysia is of the strong opinion that **legislated gender quotas and reserved seats are not the answers or antidotes to poor women representation in Malaysia.** The concept of TWOAS can be modified as Additional Seats (retaining all electoral formulas) and parties who field women candidates for Additional Seats shall be rewarded financially (referring to our proposal in the next subsection). **This leads to the final approach to be considered. We should look at the implementation of the Seat Based Direct Public Funding for Parties as the way forward to elevate women's representation.**

3. Seat Based Direct Public Funding for Parties

Tindak Malaysia is of the view that public funding of political parties that field winnable women candidates is the middle way forward for the women's political cause. We refer to this path as recommended in Bersih 2.0's report on public funding for parties.

Bersih, in its study, had proposed RM10 million in public funding (out of the wider public funding for parties) at the Parliamentary Level to be annually allocated to increase women representation (Kok Hin, 2021).

This is known as the seat-based direct public funding which means that public funding will be given on a proportionate basis to any political party based on the number of women MPs that each political party has (Bersih framed its proposal with a focus at Federal Level, however the concept can be applied for Penang). **In simple terms, the the more women-based representatives that a political party has, the more public funding the political party will receive on an annual basis.**

For the state of Penang, we can allocate 0.005% of the annual budget of the Penang State government for general public funding for parties. If we use the 2021 budget as the reference base - RM909.82 million (Mok, 2021), this amounts roughly to RM 4.5 million for public funding for parties. **It can be used to cover costs of policy development research, campaign spending, party activities and education.** For a start, from the RM 4.5 million, 10% should be invested for seat based direct public funding for parties who have elected women representatives. RM 450 000 (for a start) shall be distributed to political parties proportionally across parties based on the number of women Members of DUNs that a party has. A party can receive this funding on the condition that party has a minimum of one elected Women ADUN. This money is meant for party programmes, training and staffing required to consolidate women representation in Penang DUN and political scenes. The state government shall administer the funding for public funding for parties (including Seat Based Direct Public Funding for Parties). We let Penang Women's Development Corporation (PWDC) or relevant agencies to ascertain the appropriate amount of funding to reward parties who field winnable women candidates.

This incentive-based approach is viable because it not only encourages political parties in Malaysia to nominate more women candidates, but it also will be an incentive to political parties to nominate more women representatives for winnable seats during elections. Hence, this translates to parties treating women candidates seriously. Moreover, small parties, too, will receive this benefit by nominating winnable women candidates.

Moving Forward - Seat Based Direct Public Funding for Parties

Furthermore, this approach can be used to complement and strengthen other measures to increase women representation. **With the retention of the existing FPTP or adoption of a new electoral system (alternate option), the public funding approach will become a major incentive for more political parties to adopt their own measures to increase women representation.** Public funding can foster greater training capacity for parties to groom future women leaders. This, in turn, will reduce or nullify any arguments about the quality of women candidates.

Finally, the public funding approach ensures women candidates are elected based on their merits and it respects the essence of elections – the contest between parties, personalities, and ideas.

This approach can be regarded as a middle way between voluntary quota (depending on the party's subjective will) and legislated quotas (requiring enforcement). This approach also facilitates women's representation to go beyond the minimum 30 percent target.

After examining the three approaches, we support and advocate the seat-based direct public funding of political parties as recommended by Bersih (which can be contextualised at a smaller scale for Penang DUN). **This approach is simpler and faster in terms of implementation.** It will also provide the necessary incentives for promoting cultural change in political parties and is also a viable long-term solution to elevate women's representation. This middle way forward overcomes the various challenges faced by the approaches found in electoral system changes and quotas.

PWDC can also consider adopting a Seat Based Direct Public Funding for Political Parties as the main approach or as the complementary approach to a modified version of TWOAS which is the Additional Seats (without having demographic criteria in it). Ultimately, we would like to see strong women representation in the Penang DUN as the norm and to ensure that this norm will be maintained in a sustainable manner in the long term.

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