



PREPARED FOR: CHAIRPERSON OF THE AD HOC COMMITTEE - WCPP SEATS

TOPIC: THE CALCULATION OF THE NUMBER OF SEATS IN LEGISLATURES –
PART B

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1. Introduction

The formulaic approach is the most common and conventional approach adopted and applied by statutory public bodies across various countries and electoral systems for determining the number of seats in legislatures.¹ It allows for consistency (using the same formula) in terms of approach and transparency (publicly available data) in terms of outcomes. However, distortions and anomalies have arisen since 1999 in terms of the member to population ratio in South African provincial legislatures. This is primarily due to the Independent Electoral Commission (IEC) not periodically reviewing significant increases in population size within provinces, and consequently re-calculating and adjusting seat numbers. Therefore, the formulaic approach works best when population growth is reviewed periodically by the IEC with the express intent to adjust seat numbers to align it with the 1: 100 000 ratio. In addition, the IEC has to determine and indicate the size of change in population growth that consequently will result in either an increase or decrease in seat numbers.

This report serves as a follow-up report for the Adhoc Committee WCPP Seats and discusses:

- The link between increased seats and accountability.
- Other variables and determinants that could be factored into the calculation of the number of seats in legislatures.
- Two case studies of developing countries and their determination of seats in legislatures.

2. Increased Seats and the Link to Accountability

There is a conceptual link between increased seats and improved accountability. Legislatures serve, in essence, as an 'accountability agency' representing and advancing the interests and well-being of the people. Accountability, for the purpose of this report, is conceived as the effectiveness and efficiency of members to serve as both public and political party representatives and perform all the concomitant and varied duties related to these roles.

It can be reasonably inferred that accountability is enhanced (or compromised), when there are adequate (inadequate) seat numbers i.e., public representatives who are serving and advancing the interests and well-being of citizens. Members who have to contend with a high workload, for example, a member serving on too many committees will, arguably, be less effective than a member who is afforded time to deal with the demands of legislative, constituency and party-political work. This view is shared by commentators advocating for improved accountability mechanisms and measures stating:

If we are to persist in that choice and are to realise the accountability condition on which it is premised, we must address anew both our institutional arrangements and the practices which enhance or impede accountability. First in this must be Parliament itself. Review is needed of its (legislatures) structuring and operations, its capabilities and²

Further, "Parliament has considerable powers of oversight over the executive. However, the challenges it faces have less to do with formal powers than with process and substance ...Capacity

¹ Statista. Number of national parliament members (deputies) in the countries of the European Union and in the United Kingdom as of 2020, by country. Retrieved from: <https://www.statista.com/statistics/1172438/parliament-members-in-the-eu-and-uk-by-country/>, accessed on 24 August 2022.

² Finn, P. (1994). Public Trust and Accountability. *Australian Institute of Policy and Science*, Vol 65 No 2 pp. 50-59. Retrieved from: <https://www.istor.org/stable/20635720>, accessed on 01 September 2022.

issues, lack of experience, and resources are areas of concern, but, given the necessary time and support they can be overcome".³

Using the WCPP context⁴ as an example, there are currently 42 members, 11 who serve as the executive/provincial cabinet. This leaves 31 members to represent the people of the Western Cape, serve on committees, conduct oversight, engage the public/constituency-based work, rotate as special delegates to the National Council of Provinces (NCOP), as well as undertake party-political work. However, if seats were increased to 71 and 11 members served as the executive, it would leave 60 members who would serve the public, rather than only 31 members which is the current situation. Therefore, more members should result in increased representation, increased public participation and a distributed workload to more effectively fulfil the institutions mandate who in turn are answerable to the public.

3. Additional Variables considered into the Calculation of the Number Seats in Legislatures

Variables (other than population growth), such as population density and the number of registered voters was examined in the previous report drafted for the committee, to identify whether these variables may be included as additional variables in the calculation of seats in the Western Cape.

3.1. Population Density

Population Density helps to identify the amount of people/population within a square kilometre, to identify high and low density areas. Population density can also be used to determine the number of people within a constituency, to ensure efficient representation. However, based on the current practices in the Western Cape, members are assigned to constituencies based on a region rather than the number of citizens within a constituency/region. This means that there may be cases where one member serves over 200 000 constituents in the metro area (more dense region), versus another member who serves 30 000 constituents in outlying areas (less dense region).

Population density is a useful indicator to determine the level of resources (party political support, general resources as well as support/administration staff) required by individual members to effectively perform their respective duties.

3.2. Registered Voters

The number of registered voters in the province is also an important variable, given the fact that greater emphasis will be placed on ensuring members are able to cater to the demands of the public it serves. However, by only considering the number of registered voters, the population who are not eligible to vote (population below the age of 18) are not considered, as well as those who are not registered to vote. Therefore, the entirety of members' workload is not factored in.

Regularly assessing the number of registered voters can, however, be useful to assess whether the number of voters is increasing as the population size is increasing. This can help determine the level of political voter apathy and whether legislative resources are required for civic education to encourage citizens to register to vote or to vote in upcoming elections.

³ Motshekga, M. (2013). A Chief Whip's Perspectives on Parliamentary Governance in South Africa in *Protecting the Inheritance: Governance and Public Accountability in Democratic South Africa* ed. Daniel Plaatjies.

⁴ Western Cape Government. (2022). Provincial Cabinet: Overview. Retrieved from: https://www.westerncape.gov.za/your_gov/404, accessed on 24 August 2022.

3.3. Calculation of Seats in Provincial Legislatures in Canada

The number of seats in Provincial Legislatures in Canada are linked to the number of constituencies in each province, given that one member is elected for each constituency.⁵ If there are 87 constituencies⁶, it would result in 87 members. Provincial constituencies/districts are reviewed every 10 years by an independent Electoral Boundary Commission set up in each province, to ensure the number of constituencies and the size of the constituencies reflect changes, movement in population and population density in all provinces. Therefore, when there is an increase/decrease in population or increase/decrease in population density, the number and size of constituencies may be changed or increased/decreased, to ensure there is an equitable spread of the population and effective representation of its populace. For example, if the current ratio is 1: 60 000 and it increased to 1: 90 000, there may be a split in the current boundary to form a new constituency/district, this in turn will result in an additional member. However, source documents do not indicate what is considered a significant increase/decrease in population size or density.

3.3.1. Legislative Assembly of British Columbia

British Columbia is the third largest of Canada's ten provinces⁷, with a population of just over 5.2 million people. The province is divided into 87 constituencies (geographic areas), with one member representing each constituency.⁸ Therefore, the Legislative Assembly of British Columbia comprise of 87 elected Members, also known as Members of the Legislative Assembly (MLAs).⁹

The constituencies are reviewed every 10 years by the commission set up in the province as noted above. The commission provides recommendations to the Legislative Assembly on the area, boundaries and names of provincial constituencies of British Columbia.¹⁰ The commission can propose creating new constituencies, as well as changing the boundaries of existing constituencies.¹¹ The commission can recommend creating up to six more constituencies, or up to a maximum of 93 in total, translating to a maximum of 93 Members.¹²

The commission and its recommendations need to be guided by the principle of achieving representation by population¹³. This means that proposals need to take into consideration the impact of population changes and other geographic and demographic factors. The commission's

⁵ Legislative Assembly of Alberta. "Constituencies." Retrieved from: <https://www.assembly.ab.ca/members/members-of-the-legislative-assembly/constituencies> accessed on 23 August 2022 and The Canadian Encyclopaedia. "Members of Provincial and Territorial Legislatures." <https://www.thecanadianencyclopedia.ca/en/article/members-of-provincial-legislatures> accessed on 23 August 2022 and British Columbia Electoral Boundaries Commission. "FAQ." Retrieved from: <https://bcebc.ca/your-commission/faq/> accessed on 23 August 2022

⁶ Constituencies in Canada are also referred to as electoral districts or ridings.

⁷ It should be noted that Canada has three territories as well distinguished by how they came into existence. Territories generally are large areas with low populations created through federal law.

⁸ Statistics Canada. "Population Estimates, Quarterly." Retrieved from: <https://www150.statcan.gc.ca/t1/tb1/en/tv.action?pid=1710000901> and Electoral Districts Act. Retrieved from: <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/15039> accessed on 23 August 2022

⁹ The Canadian Encyclopedia. "Members of Provincial and Territorial Legislatures." Retrieved from: <https://www.thecanadianencyclopedia.ca/en/article/members-of-provincial-legislatures> accessed on 23 August 2022

¹⁰ British Columbia Electoral Boundaries Commission. "FAQ." Retrieved from: <https://bcebc.ca/your-commission/faq/>, accessed on 23 August 2022. "The Commission has one year from the date of appointment to prepare a preliminary report of its proposals. The Commission then has six months to receive input from the public and current MLAs to produce a final report for the Legislative Assembly."

¹¹ British Columbia Electoral Boundaries Commission. "FAQ." Retrieved from: <https://bcebc.ca/your-commission/faq/>, accessed on 23 August 2022.

¹² Electoral Boundaries Commission Act: Chapter 107. Retrieved from: https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96107_01#section15, accessed on 24 August 2022.

¹³ Political system in which seats in a legislature are allocated on the basis of population.

recommendation i.e. increasing the number of constituencies, may deviate from the current electoral quotient¹⁴ by no more than 25%, however, it can only exceed the 25% deviation principle if it considers it necessary to provide for effective representation.¹⁵ For example, if the current electoral quotient (Population of British Columbia/Electoral Districts/Constituencies) is 1: 60 000, then the new electoral quotient should not be more than 1: 75 000 or less than 1: 45 000.

In 2017, the number of constituencies increased from 85 to 87, to reflect the rapidly growing population around the Greater Vancouver area. Metro Vancouver has the highest population density greater than 900 people per square kilometer.¹⁶ This, therefore, meant the number of seats also increased from 85 to 87 to improve the representation in this area.

All recommendations of the commission are presented to the Legislative Assembly, who are required to review and vote to approve, reject, or approve the recommendations with alterations by resolution. If the commission's proposals are approved or approved with alterations by the Legislative Assembly, the government must introduce the changes to provincial constituencies as a Bill.¹⁷

4. Case Study: Republic of Botswana

The Republic of Botswana has a unicameral parliament, the National Assembly. The number of members is prescribed in their constitution and can, therefore, only be altered through a constitutional amendment.¹⁸ The National Assembly currently can either have 63 or 64 members:

- 57 members are directly elected in single-seat constituencies by a majority vote.
- Four specially elected members are nominated by the president and confirmed by a majority vote in the National Assembly.
- Two ex-officio members¹⁹: the president and attorney general.²⁰
- The Speaker of the National Assembly may be nominated and elected from either inside or outside the National Assembly. In case of the latter, the National Assembly will have 64 members instead of 63.²¹

Further, the delimitation of electoral constituencies is also guided by principles as noted in their constitution:

- Each constituency shall have a nearly equal number of inhabitants as is reasonably practicable.

¹⁴ The number obtained by dividing the population of British Columbia by the number of electoral districts in British Columbia proposed by the commission.

¹⁵ Electoral Boundaries Commission Act: Chapter 107. Retrieved from:

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96107_01#section15, accessed on 24 August 2022.

¹⁶ Legislative Assembly of British Columbia. "British Columbia." Retrieved from: <https://www.leg.bc.ca/cyp8/pages/fact-sheet.aspx> and British Columbia. "Sustainability – Trends in B.C.'s Population Size & Distribution." Retrieved from: <https://www.env.gov.bc.ca/soe/indicators/sustainability/bc-population.html>, accessed on 24 August 2022.

¹⁷ Electoral Boundaries Commission Act: Chapter 107. Retrieved from:

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96107_01#section15, accessed on 24 August 2022.

¹⁸ Constitution of the Republic of Botswana, 1966 (2016), Section 58,

https://www.constituteproject.org/constitution/Botswana_2016.pdf?lang=en, retrieved on 2 September 2022.

¹⁹ Refers to a position someone automatically gains because of another job or position they already hold.

²⁰ International Foundation for Electoral Systems, Republic of Botswana,

<https://www.electionguide.org/elections/id/3173/>, retrieved on 2 September 2022.

²¹ Constitution of the Republic of Botswana, 1966 (2016), Section 59,

https://www.constituteproject.org/constitution/Botswana_2016.pdf?lang=en, retrieved on 2 September 2022.

- The number of inhabitants in a constituency may be adjusted to account for “a natural community of interest, means of communication, geographical features, density of population, and the boundaries of Tribal Territories and administrative districts.”²²

A specially appointed Delimitation Commission oversees redrawing electoral district boundaries. Delimitation is performed when:

- The National Assembly vote to increase the number of elected members through a constitutional amendment.
- After a population census.
- At least once every 10 years but not more than once every five years.²³

In 2021, Botswana’s population was 2 397 240.²⁴ The country’s 57 electoral districts, therefore, have a member to population ratio of approximately 1: 42 057.

5. Case Study: Federal Republic of Nigeria

Nigeria has sub-national legislatures that possess a relatively transparent and uncomplicated system by which to delimit federal and state constituencies (national and provincial). At a federal level, Nigeria has a bicameral legislature consisting of a House of Representatives and a Senate. Each of Nigeria’s 36 states have a unicameral House of Assembly. Members are directly elected for single-seat constituencies that are delimited according to principles outlined in the country’s constitution:

- A state’s House of Assembly should consist of three or four times the number of seats the state holds in the House of Representatives, provided that the size of a House of Assembly shall not be less than 24 or more than 40.
- State constituency boundaries should be drawn up to ensure constituencies have an equal share of the state’s population as far as is “reasonably practicable”.²⁵

The Constitution limits the House of Representatives to 360 members and, similar to state constituencies, federal constituencies should have contiguous boundaries and delimit areas with as nearly equal number of inhabitants as is “reasonably practicable”.²⁶

The number of seats in a state’s House of Assembly is indirectly linked to the state’s proportion of Nigeria’s total population. If census records indicate, for example, that a state possesses three percent of Nigeria’s population, the state will also have three percent of the 360 available seats in the House of Representatives, i.e., 11. Using the “times three” formula, the state’s House of Assembly will therefore consist of 33 members each elected from a constituency representing more or less an equal number of people. Alternatively, if the “times four” formula is used instead, the seats in the House of

²² Constitution of the Republic of Botswana, 1966 (2016), Section 65, https://www.constituteproject.org/constitution/Botswana_2016.pdf?lang=en, retrieved on 2 September 2022.

²³ Constitution of the Republic of Botswana, 1966 (2016), Section 64, https://www.constituteproject.org/constitution/Botswana_2016.pdf?lang=en, retrieved on 2 September 2022.

²⁴ World Bank, Population total: Botswana, <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=BW>, retrieved on 2 September 2022.

²⁵ Section 90 and 91, Constitution of the Federal Republic of Nigeria, 1999. Retrieved from: <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>, accessed 24 August 2022.

²⁶ Section 49, Constitution of the Federal Republic of Nigeria, 1999. Retrieved from: <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>, accessed 24 August 2022.

Assembly would be 40 due to the rule that a state House of Assembly has to have minimum of 24 seats and a maximum of 40 seats.

Their constitution also provides for the establishment of an Independent National Electoral Commission (INEC) that is charged with organising elections, maintaining the voters' roll and reviewing constituency boundaries at least once every 10 years or when required due to significant population changes within a state or region.²⁷ However, due to the seats in the House of Representatives being limited to 360 members, redistricting constituencies is a zero-sum game that results in states that saw significant population decreases lose seats in favour of states that saw significant increases. Federal redistricting will also result in states gaining or losing seats in the state House of Assembly in proportion to their respective federal seat gains or losses. The INEC can, however, also change the number of seats in a state House of Assembly by switching from the "times three" to "times four" formula or *vice versa*. Their constitution does not elaborate on the meaning of the phrase "reasonably practicable", but the INEC considers the following factors as presenting grounds for deviating from the principle of equal population distribution when considering constituency boundaries:

- Delimitation should ideally not separate communities with strong historical, cultural or ethnic ties.
- Delimitation should not group ethnic groups with a history of rivalry or conflict together in the same constituency.
- Delimitation should respect existing local administrative / municipal boundaries; local administrative units should not straddle electoral districts.
- Natural boundaries such as rivers or mountains which may present logistical challenges to voters, candidates and election officials, should be taken into account when drawing up constituency boundaries.
- Adjustments should be made to account for lower population densities in rural areas and the logistical challenges this may represent when compared to more densely populated and well-connected urban areas.²⁸

Due to widespread political corruption, Nigeria's current constituency boundaries do not conform to the principles outlined in their Constitution. Deep seated socio-cultural, political and religious divides, however, hampers redistricting efforts.²⁹ In addition, Nigerian official census data is known to have been manipulated to serve political interests.³⁰ Efforts made by the INEC to review constituency boundaries based on official census data have lacked popular legitimacy and foundered as result.³¹ Further discussion or enumeration of Nigeria's current constituencies have been omitted from this report. Although there are variables that influence the number of seats in Nigeria at both a federal

²⁷ Section 71 and 73, Constitution of the Federal Republic of Nigeria, 1999. Retrieved from: <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>, accessed 24 August 2022.

²⁸ Ozoh, F. O., 2012, Delimitation of electoral boundaries in Nigeria: issues and challenges, *The Nigerian Electoral Journal*, 5 (2), pp. 24-25.

²⁹ Ozoh, F. O., 2012, Delimitation of electoral boundaries in Nigeria: issues and challenges, *The Nigerian Electoral Journal*, 5 (2), pp. 22, 27.

³⁰ Fawehinmi, F., 2018, The story of how Nigeria's census figures became weaponized, *Quartz Africa*, Retrieved from: <https://qz.com/africa/1221472/the-story-of-how-nigerias-census-figures-became-weaponized/>, last updated 21 July 2022, accessed 24 August 2022.

³¹ Ozoh, F. O., 2012, Delimitation of electoral boundaries in Nigeria: issues and challenges, *The Nigerian Electoral Journal*, 5 (2), p. 25.

and state level, the application and political will to adhere to the constitution and guidelines are vital to ensure the number of seats allocated are 'correct'.

Table 1 below shows the current seat allocation for Nigeria's electoral constituencies at federal and state level. Delimitation was based on the 1991 population census. Six new states were created in 1996. They are indicated in italic font and grouped with the state they were created from, in order to include population ratios based on the 1991 census. Delimitation was supposed to follow the "times three" constitutional provision but the number of State Assembly seats do not currently conform to this formula.³² Where extra seats have been allocated, it has been indicated with (+n) and where seats are too few, it has been indicated with (-n). Three states have too many seats and eighteen have too few. In addition, states with the same number of federal seats were allocated different numbers of state house seats.

Table 1: State House of Assembly Seats, Nigeria

State	Population (1991 Census)	Seats: National House of Representatives	Seats: State House of Assembly	Average Ratio
Abia State	2 338 487	8	24	1: 97 437
Adamawa State	2 102 053	8	25 (+1)	1: 84 082
Akwa Ibom State	2 409 613	10	26 (-4)	1: 92 677
Anambra State	2 796 475	11	30 (-3)	1: 93 216
Bauchi State	4 351 007	12	31 (-5)	1: 79 109
<i>Gombe State</i>		6	24	
Benue State	2 753 077	11	30 (-3)	1: 91 769
Borno State	2 536 003	10	30	1: 84 533
Cross River State	1 911 297	8	25 (+1)	1: 76 452
Delta State	2 590 491	10	29 (-1)	1: 89 327
Edo State	2 172 005	9	24 (-3)	1: 90 500
Enugu State	3 154 380	8	24	1: 65 716
<i>Ebonyi State</i>		6	24	
Imo State	2 485 635	10	27 (-3)	1: 92 061
Jigawa State	2 875 525	11	30 (-3)	1: 95 851
Kaduna State	3 935 618	16	31 (-9)	1: 126 955
Kano State	5 810 470	24	40	1: 145 262
Katsina State	3 753 133	15	34 (-6)	1: 110 386
Kebbi State	2 068 490	8	24	1: 86 187
Kogi State	2 147 756	9	25 (-2)	1: 85 910
Kwara State	1 548 412	6	24	1: 64 517
Lagos State	5 725 116	24	40	1: 143 128
Niger State	2 421 581	10	27 (-3)	1: 89 688
Ogun State	2 333 726	9	26 (-1)	1: 89 759
Ondo State	3 785 338	9	26 (-1)	1: 72 795

³² Ozoh, F. O., 2012, Delimitation of electoral boundaries in Nigeria: issues and challenges, *The Nigerian Electoral Journal*, 5 (2), p. 23.

<i>Ekiti State</i>		6	26 (+2)	
Osun State	2 158 143	9	26 (-1)	1: 83 006
Oyo State	3 452 720	14	32 (-8)	1: 107 898
Plateau State	3 312 412	8	24	1: 69 009
<i>Nasarawa State</i>		5	24	
Rivers State	4 309 557	13	32 (-7)	1: 65 296
Bayelsa State		5	24	
Sokoto State	4 470 176	11	30 (-3)	1: 82 781
<i>Zamfara State</i>		7	24	
Taraba State	1 512 163	6	24	1: 63 007
Yobe State	1 399 687	6	24	1: 58 320
Federal Capital Territory	371 674	2	None	NA
National	88 994 211	360	990	1: 89 221

6. Concluding Remarks

The adoption and application of the formulaic approach is the conventional approach to determine seats as it allows for consistency. The formulaic approach works best when population growth is reviewed and when seats are adjusted accordingly to reflect population fluctuations.

Regarding an increase in members and the link to accountability, there is a conceptual link. Legislatures serve as an 'accountability agency', representing and advancing the interests and well-being of the people where accountability is the ability to effectively serve. More members result in a more evenly distributed workload for members to effectively or better fulfil their duties.

In relation to additional variables, population density is an important variable as it indicates the member to population ratio and is a reflection on a member's workload, as well as the resources that may be required to perform their duties. Although, the voters roll has not showed to be useful in the determination of the number of seats, it is important to see if the voters roll is increasing as the population grows to determine where civic education on voting may be needed.

Lastly, additional contextual variables such as population density is used in the case of Canada as a significant increase in population in a geographical area would prompt creating new districts/constituencies which then increases the number of members. In Botswana, the number of members is prescribed in the constitution and can, therefore, only be altered through a constitutional amendment. The National Assembly currently can either have 63 or 64 members indicating a maximum, where 57 members are directly voted for by a constituency. In Nigeria, population size is not directly considered, instead their constitution prescribes a calculation for seats at a state level, and geographical boundaries are considered. Nigeria has a minimum and maximum number of seats which are 24 and 40 respectively. In Canada, Botswana and Nigeria's electoral districts/constituencies, boundaries are reviewed every 10 years, to review the impact of the demographic changes. The reviewing of the boundaries ensures that there is an equitable share of the population and to somewhat equalise the member to population ratio.

Whether it is population size, population density or geographical boundaries that are considered or reviewed, the lesson is that reviews should occur on a regular basis to consider population fluctuations and other variables which would influence a change to the number of seats.