

A research paper commissioned by Bersih 2.0  
A research paper by IDEAS

**Removal or Reform:**

# **CHARTING THE WAY FORWARD FOR MALAYSIA'S CONSTITUENCY DEVELOPMENT FUNDS**

**(Peruntukan Ahli Parlimen dan ADUN)**



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**Removal or Reform: Charting the Way Forward for Malaysia's Constituency Development Funds (*Peruntukan Ahli Parlimen dan ADUN*)**



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# Contents

- 1. INTRODUCTION..... 1
- 2. CONSTITUENCY DEVELOPMENT FUNDS: AN OVERVIEW OF GLOBAL PRACTICES..... 2
- 3. LESSONS FROM GLOBAL PRACTICES ..... 7
  - 3.1 Efficiency of CDF as decentralisation tool..... 8
  - 3.2 Lack of Transparency ..... 9
  - 3.3 Breach of the Separation of Power Principle ..... 9
  - 3.3 Effect on Political Competition ..... 11
- 4. CDFs IN MALAYSIA ..... 12
  - 4.1 Source of Financing ..... 12
    - 4.1.1 Federal Level..... 13
    - 4.1.2 State Level..... 15
  - 4.2 Purpose and Distribution ..... 16
    - 4.2.1 Federal CDF ..... 16
    - 4.2.2 State Level..... 20
  - 4.3 Rules and Procedures ..... 23
    - 4.3.1 Federal Level..... 23
    - 4.3.2 State Level..... 24
- 5. POSITIVE FEATURES AND PITFALLS OF MALAYSIA’S CDFs ..... 25
  - 5.1 Positive features ..... 25
  - 5.2 Pitfalls ..... 27
- 6. RECOMMENDATIONS ..... 30
  - 6.1 The long-term intended outcome..... 31
  - 6.2 Immediate reform recommendations..... 34
  - 6.3 How the path to reform looks like ..... 36
- Bibliography ..... 39

## EXECUTIVE SUMMARY

Malaysia has provided its lawmakers' allocations to deliver small infrastructure developments and welfare assistance to their constituencies since the early 1970s. The Constituency Development Fund (CDF) has attracted controversy mainly because opposition lawmakers do not have equal access to the allocation. Calls have been made by various quarters to make the CDF allocation equal to all lawmakers. This paper reiterates the call and points to other limitations of the current system, including the lack of transparency and the impact of CDF on democratic politics and competition.

The paper starts by providing a brief overview of CDF practices in other countries. From this overview, the paper draws three main lessons. Firstly, CDF has the potential to address urgent development needs and gaps between constituencies. But its effectiveness can be marred by a lack of transparency and accountability mechanisms. Secondly, CDF violates the separation of power between executives and the legislature and risks diluting the democratic process with patronage politics. Thirdly, CDF distorts political competition because it provides the elected representatives of the ruling party with better tools to influence voters' choices.

With an understanding of the global practice, the paper examines how Malaysia manages its CDF. With the limited publicly available information, the paper attempts to outline the source of financing for CDF allocation to lawmakers at the state and federal levels, the purpose and distribution, the rules and process of disbursement, and the monitoring and oversight mechanisms.

The examination shows that CDF is funded by various sources in the annual budget. The paper calculates that CDF uses about 1% of the federal government budget. Members of Parliament (MP) receive different amounts annually, between RM900,000 to about RM10,000,000. MPs with cabinet positions may receive more than their peers. The allocation for the MPs is part of the Special Allocation for the Prime Minister. As such, the amount given to the MPs are decided by the Prime Minister. At the state level, the allocation is from the State Economic Planning Unit. In the four different states studied (Selangor, Perak, Terengganu, and Sabah), the State Assemblypersons (*Ahli Dewan Undangan Negeri, ADUNs*) receive different amounts, with those in Sarawak receiving the most, up to RM2,500,000 in 2018.

In general, Malaysia's lawmakers can use the CDF to build small infrastructure projects in their constituencies, provide necessary supplies and goods for local communities, provide cash-assistances to low-income families or those affected by natural disasters, donations to local organisations and maintain their service centres. The fund is managed by the Implementation Coordination Unit (ICU) at the federal level and by the District Office (*Pejabat Daerah*) at the state level. Relevant agencies at the federal and state level issued guidelines to outline the purposes of the allocation and the procedures that the lawmakers have to follow to receive the allocation and utilise it. The rules limit lawmakers' direct access to the funds. While they can decide the programmes and projects, they have to apply for funding from the ICU at the federal level or the District Offices at the state level.

After examining various aspects of Malaysia's CDF, the paper argues Malaysia's CDF has decent check and balance measures to ensure the delivery of allocation to the constituencies. However, the current system also has many limitations that reduce its effectiveness as a

decentralisation tool, reinforces the current clientelist relationship between voters and politicians and further erodes the quality of Malaysia's representative democracy.

As such, the paper recommends a change to the nature of CDF in the long run. This change aims to address the concern over the CDF's violation of the separation of powers principle and reduce patronage politics. CDF has been used to address basic infrastructure needs in the community, help the poor and those in need, assist local community groups in addressing local problems and providing the MPs with some resources to run their service centres. This paper suggests that these functions should be separated.

- As a fund to address pressing community needs, CDF should be maintained. However, the MPs and ADUNs should no longer be the gatekeeper of the fund to build basic infrastructure and address pressing community needs. The gatekeeper should be elected local governments. This change will require Malaysia to have local government elections.
- The MPs and ADUNs should continue to receive funding for their service centres. However, instead of coming from CDF, such funding should come from Parliament and State Assemblies. At the federal level, this change will require the re-introduction of the Parliamentary Services Act 1963 and amendment to the Members of Parliament (Remuneration) Act 1980.
- At the same time, political parties that may receive indirect benefits from CDF should receive official public funding for their political activities. This change will require political financing legislation.

In the immediate term, while waiting for long-term change to happen, Malaysia can start addressing the weaknesses in the current CDF system that discourages accountability and fair political competition. The first immediate reform is making the allocation equal or equitable based on a certain formula and transparent. The second is making information about the source of the funding, the rules and procedures for disbursement, procurement, reporting and monitoring, open and transparent. The information pertaining to these aspects should be made public. Disclosure of implementation results should also be made mandatory for both implementing agencies and individual lawmakers so that the public can evaluate whether the allocation is being used effectively and efficiently. Malaysia can also opt for having a CDF legislation that can contain the following details:

- The allocation formula for each constituency.
- The source of financing in the annual budget, including requiring the administration to clearly list CDFs in the budget documents. The legislation can also limit the amount allocated for the CDFs annually.
- Requirements for relevant agencies and lawmakers to publish key information about CDFs to the public.
- Mechanisms for public participation in the formulation, implementation and monitoring of the CDFs.
- Any forms of sanctions for misusing or embezzling the CDFs.



## 1. INTRODUCTION

This report aims to study Malaysia's Constituency Development Funds (CDFs), commonly known as the *Peruntukan Ahli Parlimen and Peruntukan Ahli Dewan Undangan Negeri (ADUN)* (this will be referred to in this paper either as an MP/ ADUN allocation, or, allocation). The allocation has attracted intense debate in Malaysia, partly because Members of Parliament (MPs) and State Legislative Assemblypersons (ADUNs) from opposition parties do not receive equivalent amounts as those in government, if at all. Discussions around the allocation have become especially relevant during the COVID-19 crisis because it has become a tool for parliamentarians to assist their communities.

Malaysia is not the only country that provides its lawmakers with allocations to deliver small infrastructure developments and community and welfare assistance in their constituencies. Scholars refer to this allocation as the Constituency Development Fund (CDFs). Most of the countries that adopt CDFs are Commonwealth countries (Van Zyl, 2010; Baskin, 2010). CDFs can address problems of late and inefficient service deliveries, encourage public participation in deciding basic infrastructural projects and other services in their localities, and help the government address communities' urgent needs. Such potential exists because constituencies typically ask their MPs to help them receive government services, subsidies and grants, deal with authorities, or even address their personal or family problems.

However, CDFs can also be problematic. In countries where the relationship between lawmakers and their constituencies is more clientelistic (built through monetary and non-monetary assistance) than programmatic, CDFs exacerbate such relationships and risk diluting the democratic process with patronage and money politics. While opposition lawmakers in most countries that adopt CDFs are provided with the allocation, there are biases against opposition constituencies (Tshangana, 2010). As such, CDFs give incumbent lawmakers an uneven playing field in electoral competition as the fund allows them to connect with constituencies in a way that opposition and non-lawmaker politicians cannot. In countries that have a low level of transparency and accountability, projects funded by the CDFs may not be delivered or are incomplete and with inferior quality, because the projects are awarded to incompetent crony contractors or used for other purposes (Baskin, 2010; Commonwealth Parliamentary Association, 2016; Tshangana, 2010; Van Zyl, 2010; Murray, 2011).

As will be presented later, Malaysia's CDF is quite complex. Its complexity is understudied and insufficiently. Academic or popular articles on Malaysian politics mostly highlight the unfair practice of the allocation and the need for the allocation to be made more accountable without discussing the source and other aspects of the allocation, as well as its negative impacts on patronage politics and democracy (Aliran, 2011; Loh 2009; Loh 2013). Global studies on CDFs also only mention Malaysia's CDFs in passing as one of the examples.

This paper attempts to close this gap by presenting a more comprehensive assessment of Malaysia's CDF at the federal and state levels and identifying the strengths and weaknesses. The paper will also present CDFs practices in other countries and discuss their benefits and drawbacks to provide a framework for discussing Malaysia's CDFs.

This paper proposes short-term and long-term recommendations for Malaysia's CDFs. The short-term recommendations aim to address the lack of transparency and inadequate accountability mechanisms in the current process. The long-term recommendations intend to

address the negative impacts of this allocation on the quality of the democratic process whilst recognising the need for expedited service delivery and the need for lawmakers to have funding for their legislative and operational work.

## 2. CONSTITUENCY DEVELOPMENT FUNDS: AN OVERVIEW OF GLOBAL PRACTICES

Constituency Development Funds (CDFs) is a type of allocation to support grass-root level projects in constituencies. This policy tool does this by ensuring the central government's funds reach the community directly, typically through MPs representing their constituency. CDFs, therefore, is a decentralising initiative. CDFs' money bypasses bureaucratic hassles and institutional challenges the central government imposes to reach the constituency. Hence, CDFs is a reaction to some national economic barrier hindering constituency-level development and the reach of funding to local projects. Malaysia seems to be the pioneer in CDFs as it started introducing in the early 1970s (ICU, 2008; Washida, 2019). Uganda has a CDF type mechanism in 1969, but only formally introduces it in 2006 (Tsubura, 2013). Many African countries adopted CDFs after 2003, after seeing the implementation of this policy in Kenya (Tshangana, 2010). Based on our reading, at least 17 countries have adopted a CDF-type allocation (see Table 1). CDF practices vary by country, not just in name but also in terms of its source of allocation in the annual budget, disbursement value and method, and accountability mechanisms. This section provides an overview of how other countries implement CDFs.

### **Name and Purpose**

CDFs have been implemented in different forms under various names in other countries, for example, the Constituency Development Catalyst Fund (CDCF) in Tanzania, Priority Development Assistance Fund (PDAF) in the Philippines, and the Member of Parliament Local Area Development Scheme (MPLADS) in India (Tshangana, 2010). In some countries, these names are officially listed in the CDF legislation, such as in Kenya (National Government Constituencies Development Fund (NG-CDF)) and Ghana (District Assemblies Common Fund (DACF)). In other countries, such as India and Pakistan, the CDF names are mentioned in the annual budget documents, even though they are not sanctioned by legislation. In Malaysia, however, references to CDF are only found in annual reports of agencies in charge of the distribution, Implementation and Coordination Unit (ICU) under the Prime Minister's Department) and District Office (*Pejabat Daerah*)<sup>1</sup>.

Despite differences in name, these allocations share a similar purpose: to promote development at the constituency level with some degree of involvement from parliamentarians in the projects' initiation and execution. In African countries that practice CDF, such as Kenya, Ghana, Zambia, Uganda, Tanzania, and Southern Sudan, the CDFs aim to alleviate poverty at the constituency level.

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<sup>1</sup> District Offices are bureaucratic branches of state governments, with District Officer (DO) as the top administrator. District Offices are different from Local Authorities including District Councils, which consist of state-appointed politicians as councilors and have their own bureaucrats.

Table 1: Countries with CDF allocation

No	Country	Name of CDF	Duration
1	Malaysia	Peruntukan Ahli Parlimen / Dewan Undangan Negeri	Since 1971
2	Papua New Guinea	Electoral Development Fund	Since 1984-1995
3	Pakistan	Constituency Development Fund (CDF)	Since 1985
4	Solomon Islands	Rural Constituency Development Fund (RCDF)	Since 1989
5	Philippines	Priority Development Assistance Fund (PDAF)	1990-2013*
6	Ghana	District Assemblies Common Fund (DACF)	Since 1992
7	India	Members of Parliament Local Area Development Scheme (MPLADS)	Since December 1993
8	Nepal	Local Infrastructure Development Programme (LIDP)	Since 1994
9	Zambia	Constituency Development Fund (CDF)	Since 1995
10	Kenya	National Government Constituencies Development Fund (NG-CDF)	2003-2015**
11	Uganda	Constituency Development Fund (CDF)	2005-2006
12	Honduras	District Development Fund	Since 2006
13	Malawi	Constituency Development Fund (CDF)	Since 2006
14	Sudan	Constituency Development Fund (CDF)	Since 2007
15	Jamaica	Constituency Development Fund (CDF)	Since 2008
16	Tanzania	Constituencies Development Catalyst Fund (CDCF)	Since 2009
17	Namibia	Constituency Development Fund (CDF)	Awaiting bill to be passed (2019)

Source: Baskin, 2010; DBM, 2016; Tsubura, 2013, Auditor General of Jamaica, 2020.

\* In 2013, CDF in the Philippines was declared unconstitutional (DBM, 2016).

\*\* Kenya replaced its CDF with National Government Constituencies Development Fund that requires less involvement from the MPs

The list suggests that the presence of CDFs cannot be tied to any forms of government, although countries with the Westminster system or with a history of this system are more prominent. In the Westminster system, parliament usually has less power to amend the budget (Liener, 2005), it is possible that CDFs serve as compensation for the limited legislative power to change the budget (Baskin, 2020). In fact, Tshangana (2010) even suggested that one of the reasons for CDFs to evolve is the limited ability of lawmakers to influence the budget.

The list also suggests that CDFs are mostly found in developing countries. Such ubiquity may have to do with the relatively lower capacity of their local government institutions to deliver public services. Such low capacity may be caused by the fact that these countries were newly independent or were ravaged by civil war for so long.

Mature developed countries are not featured in discussions on CDFs (Tshangana, 2010; Baskin, 2010; Tsubura, 2013). However, the practice of funnelling funds into individual

constituencies is not exclusive to the developing world. In developed countries, such practices are often referred to as “pork-barrel politics”,<sup>2</sup> where lawmakers bring allocations for projects or community activities in their constituencies because they will be able to secure support from the constituencies. CDF is slightly different from “pork-barrel spending” because it is more “institutionalised in the government’s annual budget” and is meant to “help fill in the important gaps in government services in constituencies that have not been addressed in the government’s large, comprehensive policy programs” (Baskin, 2014).

The most recognised form of “pork-barrel politics or spending” is the US’s “congressional earmarks”. The earmarks refer to projects that are funded by the US annual budget at the request of members of the Senate or House of Representatives for their states or districts. Like in Malaysia, lawmakers in every in the US face pressures and expectations to bring money to their home constituency. So, instead of only supporting or rejecting budget priorities, lawmakers in the US, due to their relatively more powerful discretion to amend the budget, propose projects that will specifically benefit their districts or states. So, while projects funded by CDF are not decided in the parliament, earmarked projects in the US are decided by the lawmakers directly in the House. Due to a number of controversies, the congressional earmarks practice was banned in 2011. However, early this year, Democrat-controlled Congress considers bringing back the practice.

Another form that is less recognised but seems to have more resemblance to CDF is France’s “*réserve parlementaire*” (parliamentary reserve). It is the allocation in the annual budget that is given to MPs to enable them to “support local investments decided by local authorities and activities carried out by associations” (French National Assembly, 2016). GRECO (Groups of States Against Corruption, an organisation established by the Council of Europe to monitor States’ compliance with the organisation’s anti-corruption standards, raised concerns over the allocation “due to serious risks for the integrity” in 2013 (GRECO, 2013, p.4). In 2017, the allocation was scrapped by an act of parliament (*Gouvernement*, n.d.).

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<sup>2</sup> Pork-barrel politics is also used as a general term for “the practice of targeting public funds to particular regions or local districts based on political considerations”. (See <https://apo.org.au/sites/default/files/resource-files/2015-12/apo-nid63224.pdf>). It is slightly different from CDF and the US and France’s pork-barrel spending which attempt to channel the funding to any constituencies or to constituencies of lawmakers who propose it.

### **Box 1: Singapore's Pseudo-CDF**

Singapore is not listed as one of the countries with CDFs type allocation. But it has a budgetary allocation for projects at the constituency level that involve some degrees of decision-making from the MPs. Singapore has two types of institutions that manage CDF-like allocation: town councils and Citizens' Consultative Committees".

In Singapore, the MPs lead the town councils for each constituency. As Singapore has Group Representation Constituencies (GRS), where several MPs represent the constituencies, the town council is led by more than one MP. However, the scope of the town council's responsibility is minimal, as outlined in the Town Councils Act of 1988. Town councils are only responsible for managing and maintaining the common property at public housing estates (Ministry of National Development Singapore, n.d.). Town councils are mainly funded from service and conservancy charges collected from residents and commercial tenants, with additional government support in an annual operating grant. Town councils are also allowed to invest their funds in financial assets to fund their operations (Ministry of National Development Singapore, n.d.).

The second institution is Citizens' Consultative Committees (CCCs), which have a larger role than town councils. They plan and lead significant grassroots activities within a constituency, oversee local assistance programmes and organise major fundraising projects and national campaigns, which are much more in line with how CDF funds are often spent in other countries (Citizens' Consultative Committees, 2018). Unlike town councils, MPs are not always involved with the CCC. Suppose the constituency MP is a member of the ruling party in government (the People's Action Party (PAP), they will be responsible for appointing the CCC members. Suppose an opposition MP holds the seat. In that case, the losing PAP candidate will be the CCC advisor, as opposition MPs are not allowed to hold this position (Hong Hai, 2020; Wong Pei Ting, 2019). CCCs are funded by the Community Improvement Projects Committee (CIPC) under the central government. As a result of these structures, CIPC funds are often politicised, which means that opposition-held constituencies often receive much less funding than government-held constituencies. Furthermore, as CCCs are controlled by the PAP, opposition MPs often find it hard to gain approval for their proposals and projects and secure funding from the CIPC.

### ***Financing and Distribution***

CDFs are funded by countries from their annual budgets, with weights ranging from 2.5% to 7.5%. In countries with CDF legislation, such as Kenya and Ghana, the annual allocation for CDF is set in the legislation—as such, allocating anything more or less than the amount fixed in law would be illegal. Doing so could warrant a lawsuit against the government whereby the judiciary can hold them accountable to the executive for not meeting the legislated standard of the annual allocation. The legislation also requires the publication of CDF amount in fiscal documents and reports. In contrast, India does not have separate legislation for its CDF, but the CDF is one of the Ministry of Statistics and Programme Implementation budget items. As a result, the CDF is subject to parliamentary scrutiny, and the corresponding ministry has established an online portal to report the fund's implementation.

Table 2: Annual Allocation and Distribution Rule to each MPs

No	Country	% or Amount of CDF Allocation in Budget	Eligibility of Opposition Lawmakers (Y/N)	Distribution Rule
1	India	0.08% (2021)	Yes	Equal 5 Rs. crore each (2021)
2	Ghana	5%	Yes	Equal
3	Uganda	US\$ 2.95 billion	Yes	Equal
4	Zambia	0.004% (2012)	Yes	Equal
5	Jamaica	0.5%	Yes	Equal
6	Solomon Islands	12% (2015)	Yes	Equal
7	Tanzania	0.03% (2020)	Yes	Equitable (25% equally allocated; 45% on population basis; 20% on poverty margin; 10% on constituency's geographical size)
8	Malawi	0.002% (2021)	Yes	Equal
9	Pakistan	5% of development budget (2009-2010)	Yes	Equal
10	Nepal	0.45% (2020/2021)	Yes	Equal
11	Sudan	SDG 141 million (2007)	Yes	Equal
12	Kenya	not less than 2.5% of annual revenue	Yes	Equitable (75% equally allocated; 25 % distributed on poverty level basis)
13	Malaysia	Around 1% of annual government expenditure (Federal)	Yes (but inconsistent)	Unequal without known formula
14	Papua New Guinea	Unknown, but each MP received about K550,000 (1996)	Yes	Equal
15	Philippines	Unknown, but MP receive P70 million and Senator P200 million (2012)	Yes	Equal
16	Honduras	0.3% of 2020 budget expenditure	Unknown	Unknown
17	Namibia	To be determined in bill awaiting to be passed	Unknown	Unknown

Source: Baskin, 2010; Chibomba, 2013; Golding, 2020; Batley, 2015; Daudi, 2019; Chiuta, 2020; Kahiurika,

2015; Univision, 2019; Non-Governmental Constituency Development Fund Act 2015, 2015; The Constituencies Development Catalyst Fund Act 2009, 2009; Nograles et al., 2012; DBM: 2012; Ketan; 2007

Countries have different ways of determining the amounts allocated for an individual lawmaker. Some countries distribute the allocation equally among all constituencies. In India, for example, each MP is allocated Rs.5 crore (around RM 2.7 million) per year since 2011-12, while each Jamaican MP receives J\$20 million (equal to RM558,266 in 2020) annually (The Gleaner, 2020). Others distribute different amounts to their lawmakers. Some of these countries devise a particular formula to determine the differences in allocation. In Kenya for example, 75% of the total amount of CDF was disbursed equally across 210 constituencies and the remaining 25% was disbursed based on the poverty index (IEA, n.d). In Tanzania, only 25% of the total allocation is equally allocated, while the remaining 75% are allocated based on the number of population in the constituency (45%), poverty margin (20%), and 10% on geographical size (The Constituencies Development Catalyst Fund Act 2009, 2009).

### **Disbursement process**

CDF is generally understood as a development allocation that is subject to significant control by lawmakers. However, the level of their control over the allocation varies from country to country.

In most countries, parliament members may have full control over the purpose of the allocation, but their access to the money is limited. In some countries, MPs do not receive the allocation directly. Instead, the CDF allocation is directly transferred from the agencies in charge of managing the allocation to local government entities such as in India or a special entity created for CDF purposes, such as in Kenya. Indian Members of Parliament (MPs) and Members of Local Assemblies (MLAs) – equivalent to Malaysia’s ADUNs - do not receive any money at all under the Members of Parliament Local Area Development Scheme (MPLADS), the Indian CDF programme. The Ministry of Statistics and Programme Implementation (MoSPI) transfers the funds directly to district authorities, not directly to MPs. This annual entitlement is released conditionally in two instalments of Rs.2.5 crore each. The legislators can only recommend works in their constituencies based on a set of guidelines. The MPLADS only funds durable community assets like roads and school buildings. Non-durable assets are not recommended and can only be approved under limited circumstances. In Kenya, funds are sent from the Ministry of Planning to the CDF Board, which then disburses them directly to constituency committees, into commercial bank accounts set up for each Constituency Development Committee. In Malaysia, as will be seen later, MPs have some access to the money, but the ICU or District Offices (*Pejabat Daerah*) manage the bulk of the CDF fund.

## **3. LESSONS FROM GLOBAL PRACTICES**

This section of the paper will discuss issues and lessons learned from global practices. The most common issues raised in the literature include factors that affect the CDF’s efficiency as a decentralisation tool, separation of power between the executive and legislature, interparty competition, clientelism, and patronage politics.



### 3.1 Efficiency of CDF as decentralisation tool

Supporters of the CDFs argue that the allocation helps countries decentralise development and infrastructure initiatives. CDFs can expedite constituency-level development projects by sidestepping bureaucratic processes and red tape at the central governmental level. Expediency is poignant in developing countries or countries with an inefficient central and local administration and slow execution of constituency-level development projects (Commonwealth Parliamentary Association, 2016). In contrast, MPs and people of the constituency can identify areas that require development better than central agencies. Therefore, they can use these funds to produce tangible results faster than the central and local governments. Moreover, decentralisation potentially increases the public's participation in development projects and, as a result, increases accountability (Kimenyi, 2005). Residents and local organisations in countries with local CDF committees can propose projects to the MPs or plan and implement them.

However, there are also significant concerns over the efficiency of CDFs as a tool for decentralisation. The first potential factor that may influence the efficiency of CDFs is the distribution formula. In general, we observe two trends in CDF disbursement: equal distribution across all constituencies and a needs-based distribution that prioritises poor areas. There are problems with both formulas. The CDF distribution may be regressive in the equal distribution system, as affluent constituencies would receive as many funds as underdeveloped constituencies do. On the other hand, any needs-based approach opens the door for political manipulation to favour certain constituencies over others. As a result, no distribution formula will have suboptimal returns (van Zyl, 2010). For example, most Kenyans do not feel that CDF funds were distributed relatively in their country. A common perception among Kenyans is that the MP's ethnic group, clan, or cronies have unfairly benefitted from the CDF funds (Tshangana, 2010). This sentiment is shared in Tanzania, where a slight majority indicates that their CDCF allocations are politically motivated (Daudi, 2019).

The second factor that may affect CDFs' efficiency is the nature of the projects. As CDF provides MPs with political benefits, the projects funded by the allocation are often short-term and are not designed to be sustainable. The projects that are implemented, for example, require maintenance costs that are not well calculated before the implementation. In Kenya, for example, there are ongoing disputes between CDF committees and local government agencies over who should shoulder operational costs of CDF-funded projects (Tshangana, 2010). In India, the CDFs are not supposed to fund the operations and maintenance costs of their projects. Instead, these costs must be borne by local government authorities that may not have the budget and capacity to deliver them. Such strict rules lead to instances where projects are prematurely abandoned, raising concerns over MPLADS-funded projects' sustainability (Tshangana, 2010).

The third factor that may affect its' efficiency is the capacity and capability of local governments. In many countries, while MPs may control the fund's purpose, the implementation of the CDF projects is still under local governments' responsibility. The success of CDF projects depends on the capacity of local governments. Issues, however, may arise when the local governments lack technical and administrative expertise. As a result, the projects end up poorly designed or poorly managed (Baskin, 2010). In fact, due to this problem, many CDF projects in many countries are mostly small-scale. In Kenya, for example, CDFs are used for assisting primary schools. Similarly, in Tanzania, CDCF funds were mainly used for projects like fixing roads, buying computers for schools and providing bursaries for students (Daudi, 2019).



The final factor that can affect efficiency is potential abuses to the CDFs such as misallocation, nepotism, and irregular awarding of tenders. These problems are especially prevalent in countries that have poor corruption reporting and oversight mechanisms. For example, in Kenya, CDFs run into several problems, including funding non-priority projects that benefit a select few and prioritising easy, short-term projects instead of sustainable long-term development projects. Some CDF programmes have associated issues such as collusion in tender awards, MPs acting as suppliers, bribery, and double-funding of projects. Another problem of CDFs in Kenya is that MPs start new projects instead of continuing existing projects to claim full credit and poor contract management, leading to sub-standard or incomplete work being compensated as complete (Tshangana, 2010). In Kenya, MPs are theoretically not supposed to have access to the funding directly. Still, a report suggests that they are involved in implementing the projects as suppliers (Tshangana 2010).

### **3.2 Lack of Transparency**

Global studies on CDFs also point to the lack of transparency. For CDFs to serve its intended purpose of increasing citizen participation, there must be a high level of transparency. Budget and expenditure figures of CDFs, progress reports, and tendering/ procurement documentation are supposed to be available to the public. In reality, CDF-related documents are difficult to obtain as officials and MPs often hinder access, delay publication of data, or simply refuse access to these data (Tshangana, 2010). For example, most Kenyans found that transparency in CDF management was poor (Tshangana, 2010). When data is provided, the citizens are often not sufficiently economically literate to hold officials accountable. As a result, there is often a low level of local community involvement in project identification and selection, even though such participation is mandated by CDF law (Francis et al., 2009).

The issue of transparency is not limited by any means to Kenya. In Tanzania, MPs have overwhelming control over the CDCF, while the public has little knowledge over the existence and operations of the CDCF (Daudi, 2019). Civil society groups have indicated that it is difficult to obtain CDF project information from CDCF offices (Tshangana, 2010). In Uganda, each MP must establish a committee of five people to handle CDF disbursements and serve as the committee chair. Yet, the MPs receive the money (Tshangana, 2010). Predictably, this extremely poor accountability has led to rampant corruption, eventually leading to the CDF being scrapped in 2011 (Naturinda, 2011). In Pakistan, the government ministry in charge of CDF was very reluctant to release data regarding CDF disbursement (Malik, 2019). India seems to be the exception; public access to MPLADS information is decent, as it is covered under India's Right to Information Act (Tshangana, 2010).

### **3.3 Breach of the Separation of Power Principle**

A more integral issue with CDF is the breaching of the separation of powers. This issue is independent of implementation, which is to say that the issue persists even in countries with better CDF governance and transparency. The separation of power principle is key in democracies because it ensures checks and balances between the three government branches– the executive, judiciary, and legislature. Each branch has its respective roles and responsibilities, which ideally should not overlap. The CDF, especially when it allows lawmakers to implement the projects

(not only propose them), seems to allow the fusion of roles of lawmakers as both legislator and executors of government policies. Such fusion of roles may have some implications.

First, the CDF situates and encourages lawmakers to be more occupied with executing and delivering development projects to their constituencies rather than legislating rules and providing oversight to government policies and activities. Such a situation is exacerbated by the fact that MPs in countries that practice CDFs have fewer days of sitting than the MPs in countries that do not have CDFs. In other words, the MPs in these countries spend less time on their legislative works of scrutinising bills, policies, and budgets. For example, the Kenyan National Assembly had 88 sitting days in their 2020 schedule (The National Assembly Legislative Calendar, 2020). The Indian House of the People has about 60 to 65 sitting days a year. As a comparison, the UK House of Commons has routinely sat for roughly 150 days a year since the beginning of the twentieth century (Business FAQs, n.d.), while the Canadian House of Commons meets for about 135 sitting days a year (House of Commons Procedure and Practice, n.d.). Even in the UK, MPs are increasingly interested in doing constituency work than legislative work (Wright, 2010) while they do not have specific funds to spend on such purposes. Therefore, the CDF provides more incentives for the MPs to do more constituency work than legislative work because they have a specific allocation to carry them out.

Secondly, the CDF, like pork-barrel spending, may erode MPs' responsibility to provide effective oversight. The executive proposes the allocation of CDFs to parliament. The executive could use increased CDF disbursements to buy support for its budget, thereby eroding the legislature's role in checking against the executive. For example, in the Philippines, the Priority Development Assistance Fund (PDAF) allocation steadily increased as the President tried to curry favour with legislators. Under the Benigno Aquino III administration, PDAF's allocation more than doubled from 10.86 billion Pesos to 24.62 billion Pesos (Abao, 2013). Thus, the Philippines' Supreme Court declared the PDAF unconstitutional in 2013 as it violated the separation of powers principle (Reformina, 2013). The Philippines is not the only country to rule its CDF Act to be unconstitutional, as Kenya made the same decision in 2015. However, instead of abolishing the CDF completely, Kenya replaced it with the National Government Constituencies Development Fund (NG-CDF). Under the NG-CDF system, lawmakers no longer play a central role in deciding and managing CDF projects (RoGGKenya, 2016). Additionally, the NG-CDF has a Constituency Oversight Committee that functions to oversee the projects undertaken under the Act and receive feedback from members of the public.

Thirdly, CDFs exacerbate the clientelist linkage between voters and their MPs. The relationship between MPs and voters will be defined mostly by their provision of public goods instead of legislative oversight. In many countries, voters often mistakenly approach their MPs instead of their local government authorities for issues over public goods provisions. The CDF strengthens this misconception (van Zyl, 2010). CDFs encourage the voters to evaluate their representative's performance based on their ability to bring in benefits and development to their constituents rather than by their legislative performance. This trend can be observed in the Philippines (van Zyl, 2010), Uganda (Tshangana, 2010) and Jamaica (Samuda, 2018). However, it is worth noting that the CDF is not the only tool reinforcing the unhealthy relationship between the constituents and their representatives. Therefore, it is not clear that an absence of the CDF would result in any improvements. Conversely, the absence of CDFs might encourage private sourcing of funds for the MP's patronage needs, which will prove harder to track and regulate if countries do not have sufficient political financing regulations.

Finally, by giving the parliamentarians the role of implementing local development projects, CDFs can undermine local governments' capacity to deliver services (van Zyl, 2010). He (2010) argues that while the CDFs are theoretically meant to expedite the delivery of resources to local communities, the resources that are made available for that purpose can be diverted from resources that are meant to be delivered by local government, instead of additions or injections. He maintains that it is difficult to pinpoint whether CDF resources are addition or diversion from local government funding, but funding shortfall in local government may indicate that CDFs are not an injection. In Zambia, more than one billion Kwacha was transferred to each constituency, while local council salaries had not been paid for almost two years (Van Zyl, 2010).

While CDFs can be efficient and transparent, it remains problematic based on the separation of power principle. CDFs allow the fusion of representative's roles as lawmakers and implementers of government policies. Such fusion may have some impact on accountability and oversight, reinforce the clientelistic relationship between representatives and their voters, and undermining local governments' authority and efficacy.

### **3.3 Effect on Political Competition**

An issue commonly reported with CDFs is its' detrimental effects on political competition. CDFs boost the incumbency advantage of ruling parties and politicians, even in countries where opposition politicians receive the allocation. For example, in the Philippines, some lawmakers use the PDAF to boost their family name recognition to get themselves and their family members re-elected, as local development projects now bear the legislator's name. The allocation strengthens political dynasties (Mendoza et al., 2014). In India, it is found that Indian MPs increase their Members of Parliament Local Area Development Scheme (MPLADS) spending just before elections, once again highlighting the political usage of CDFs and the mismanagement of funds leading to suboptimal economic returns (Blair, 2017).

- As CDF provides political benefits, ruling parties are likely to shore their support and weaken the opposition. The political calculation may skew the location of CDF-funded projects. In the Philippines, legislators tend to channel a significant amount of their PDAF funds into areas that were considered of high political interest. Some legislators have also donated parts of their PDAF allocation to other districts for political purposes, either to challenge incumbents or to shore up vulnerable party members (Mendoza et al., 2014). In India, Keefer and Khemani found that legislator effort is significantly lower in "safe zones" where voters are loyal to a particular party or seen as a candidate stronghold (Mendoza et al., 2014). CDF funds could also be used to "reward" loyal constituents, as seen in Jamaica, where there is an increase of CDF disbursement in party strongholds (Samuda, 2018). Similarly, in Pakistan, a single federal ministry controls the processing of project proposals and the release of funds. Such single control allows the ruling party to exert significant control over the disbursement of funds in a way that advantages ruling party MPs, allowing them to reap long-term electoral benefits (Malik, 2019).

It is worth noting that CDFs give incumbency advantage to sitting politicians over their opponents in opposition parties and their competitors within the party. CDFs provide lawmakers resources to boost their position within the party and win party elections. Such an advantage makes incumbents more resistant to internal challenges, strengthening their grip on their

respective parties' seats. Moreover, as observed in the Philippines, the executive's control over the budget allocation incentivises mass party defections in favour of the president's party (Montinola, 1999). This is because, in an electoral system where name recognition trumps party affiliation, budget allocations were crucial to a candidate's re-election hopes.

## 4. CDFs IN MALAYSIA

Malaysia's MPs and state assemblypeople (ADUN) receive a CDF type allocation to carry out programmes and projects in their constituencies, provide donations and emergency relief for voters. News reports refer to this allocation as "*MP allocation*", "*Peruntukan Ahli Parlimen*" or "*Peruntukan ADUN*". Despite its popularity and controversy, information about this allocation is minimal. The public may be aware of the amount given to some MPs and ADUNs and the purpose of the allocation, especially after Pakatan Harapan came to power as some Pakatan Harapan MPs reported the use of the allocation. However, the information about sources of this allocation in the annual budget, the total annual allocation, the rules and mechanisms of distribution remains elusive. According to an MP from the Pakatan Harapan (PH) coalition, PH only found out about the federal-level CDF's details once they got into power in 2018 (Bersih Consultation Forum, 2020).

This section attempts to fill this gap by using documents published by agencies that oversee the allocation (*ICU and Pejabat Daerah*), news reports and interviews with some politicians. It will describe the sources of the allocation in the annual budget and the estimated amount given to individual lawmakers, the total estimated amount for this purpose in the annual budget, and the distribution rules and mechanisms. The discussion on state-level CDF will mainly rely on information from four states: Selangor, Terengganu, Perak, and Sabah. These states were chosen based on the interviews we were able to conduct and publicly available government documents. We include information about Sarawak's CDF from news reports to illustrate the vast difference in the amount given to ADUNs in different states. ADUN's allocation in other states is not publicly available. Additionally, publicly available information that can shed light on the allocation in other states, such as the Annual Budget documents and the circulars, is unavailable. District offices in several states released their annual reports, but these reports do not always carry information about the allocation. As pointed later in the paper, one of the major weaknesses of the current CDF is the lack of transparency.

### 4.1 Source of Financing

The first question one naturally asks when it comes to MP/ ADUN allocation is how much each of them receives annually. Before answering this question, this section will start by discussing the source of the allocation. The discussion will highlight the fact that Malaysia's CDF is problematic because of its unfair distribution, the lack of transparency, and the high level of executive discretion in deciding the allocation. The opacity prevents the public from effectively scrutinising any allocations that directly affect them and can be used by ruling parties as resources for political campaigns.

MP/ ADUN allocation is funded by the annual federal budget. However, the main budget documents, such as the Federal and State Government Expenditure Estimates and the Annual

Financial Statement of the Federal/ State Government that reports the proposed and actual government expenditures, respectively, do not have items with such names nor correspond to MP/ ADUN allocation. Countries may have this practice because the funding for their CDFs comes from various sources in the annual budget. A guideline on CDFs issued by the Commonwealth Parliamentary Association suggests that having various sources of funding is not a problem. The variety of sources becomes problematic if the government does not disclose the source, and the formula of distribution among MPs and other lawmakers is not transparent. This is the case in Malaysia.

#### 4.1.1 Federal Level

The guidelines issued by the Implementation Coordination Unit (ICU), a unit under the Prime Minister's Department (PMD) tasked to manage the allocation, suggests that funding for the MP allocation comes from Special Allocation to the Prime Minister (*Peruntukan Khas untuk Perdana Menteri*) and, from 2014 onward, also from the *Projek Mesra Rakyat* allocation.

*Projek Mesra Rakyat* is an item listed in the publicly available budget documents; hence the public may know the total proposed and actual allocation per year by checking the annual budget documents. However, information about *Projek Mesra Rakyat* being the source of MP allocation is not widely known. Based on the ICU Annual Report, *Projek Mesra Rakyat* is one of the programmes funded by the development allocation for the Prime Minister's Department since 2014. This programme was created by the Najib administration in 2013 to fund small infrastructure projects proposed by the ruling party MPs for their constituencies. The small projects were expected to have an immediate impact on the community and must be completed in the same year (ICU, 2014 Annual Report).

Unlike *Projek Mesra Rakyat*, the Special Allocation for the Prime Minister is not a listed item in publicly available main budget documents. Hence finding the total amount from this source in the annual budget is impossible. Publicly available ICU Reports do not define this allocation very clearly. But various ICU annual reports suggest that this allocation is also known as "*Projek Khas*" as it is handled by the Special Projects Division (*Bahagian Projek Khas*) in the ICU. The narratives of the reports suggest that the prime minister can use the *Projek Khas* allocation to fund projects proposed by cabinet members, senators, MPs and ADUNs (ICU Annual Report 2008, p. 43 - 44). In fact, some of the annual reports feature the disbursement of *Projek Khas* allocation to these different groups of politicians (see Table 4). So, it seems that federal-level CDFs involve not only MPs but also senators and ADUNs. ICU reports, unfortunately, do not disclose the disbursement process to the senators and ADUNs and the name of the state constituencies.

Table 4: *Projek Khas* allocation in the 2015 ICU Annual Report

Item	Negeri Sembilan	Federal Territories	Penang	Pahang
Prime Minister	7,702,482.87	3,600,500.00	5,004,000.00	60,589,350.00
Deputy Prime Minister	3,614,870.00	6,909,000.00	11,996,600.00	4,274,000.00
Minister	1,029,250.00	665,705.00	617,165.00	2,026,680.00
Parliamentary Constituencies/ MPs	30,765,945.21	303,367.00	4,800,000.00	61,998,922.00

Senator	224,300.00	182,500.00	120,000.00	211,600.00
Deputy Minister	72,000.00	292,500.00	206,000.00	4,670,515.21
Ministry of Finance	280,000.00	0	0	0
Targeted Parliamentary Constituencies	2,501,382.64	0	0	0
State Constituencies (DUN)	0	0	4,599,987.80	48,188,701.86
ICU Projects	1,289,000.00	40,000.00	4,973,600.00	2,500,000.00
Extension Projects	2,503,937.36	0	2,820,000.00	33,000.00
<b>TOTAL</b>	<b>49,983,168.08</b>	<b>11,993,572.00</b>	<b>35,137,352.80</b>	<b>184,492,769.07</b>

Source: ICU, 2015, p.121-127. (The 2015 ICU Annual Reports only presented detailed reports on the breakdown of the allocation in four states. For that reason, this table does not have information from other states.)

The source of funding for *Projek Khas* in the annual budget is not fully clear. The guidelines suggest that some of the allocation, especially that disbursed to the MPs, comes from the allocation for grants under the operating expenditure of the Prime Minister's Department (B.06) and the Treasury (B.11). These two ministers have several grant allocations, and the ICU guidelines and reports do not disclose clearly which grants allocation are used for this purpose. The ICU Annual Reports reported the total amount of *Projek Khas* annually, but the reports are usually released after the budget year ends. As such, it is difficult for the public to calculate the total allocation for *Projek Khas* (including MP allocation) when the budget is proposed to parliament.

It should be mentioned here that the ICU's Special Projects Division also managed projects other than *Projek Khas*. In between 2008-2018 for example, the division managed two other projects, *Pembangunan Infrastruktur Awam* (PIA) and *Projek Infrastruktur Asas* (PIAS). These projects, like the *Projek Mesra Rakyat*, were meant to build small basic infrastructure projects. It is not clear whether these projects should be approved by the Prime Minister. But the ICU reports show that these projects were disbursed based on parliamentary constituencies (For example, see ICU Reports 2015). As such, it is possible that PIA and PIAS were also sources of federal-level-CDFs.

Using the information available in various ICU annual reports, our calculation shows that the total amount of MP allocation annually from 2008-2019 ranges from RM600 million to RM1.76 billion. This amount represents between 0.3 to 0.7 percent of the total actual government expenditure in a year (See Table 5). This percentage is comparable with other countries, which allocate between 0.03 to 5 percent of their annual budget. However, if we include the total special allocation for the prime minister to this number, the total increases to around 1percent of the annual government expenditure.



Table 5: The total amount of MP Allocation and its sources in the annual budget

Year	Projek Khas	Projek Mesra Rakyat	Total Amount of MP Allocation	Total Actual Government Expenditure	%
2010	1,168,540,000	-	1,168,540,000	204,424,000,000	0.6
2011	1,471,582,100	-	1,471,582,100	231,840,000,000	0.7
2012	1,377,900,000	-	1,377,900,000	205,537,000,000	0.7
2013	1,766,900,000	-	1,766,900,000	253,480,000,000	0.7
2014	824,170,000	665,000,000	1,489,170,000	225,100,000,000	0.7
2015	871,740,000	667,420,000	1,539,160,000	257,766,000,000	0.6
2016	716,690,000	804,000,000	1,520,690,000	252,170,000,000	0.6
2017	640,990,000	804,000,000	1,444,990,000	262,580,000,000	0.6
2018	1,006,090,000	656,630,000	1,662,720,000	287,055,950,000	0.6
2019	415,330,000	277,530,000	692,860,000	263,343,000,000	0.3

Source: ICU, 2010; ICU, 2011; ICU, 2012; ICU, 2013; ICU, 2014; ICU, 2015; ICU, 2016; ICU, 2017; ICU, 2018; ICU, 2019; Accountant General's Department, 2010; Accountant General's Department, 2011; Accountant General's Department, 2012; Accountant General's Department, 2013; Accountant General's Department, 2014; Accountant General's Department, 2015; Accountant General's Department, 2016; Accountant General's Department, 2017; Accountant General's Department, 2018; Accountant General's Department, 2019

#### 4.1.2 State Level

As at the federal level, *Peruntukan ADUN* is also not listed as an item in the state annual budget documents. Information about the allocation is found from either circular issued by the State Treasury, annual reports of the District Office or the Auditor General's Report. These documents suggest that *Peruntukan ADUN*'s allocation comes from Menteri Besar and Setiausaha Kerajaan Negeri's development allocation. This allocation is disbursed to the State Economic Planning Unit, *Unit Perancangan Ekonomi Negeri* (UPEN). In Sabah, however, the unit that oversees the allocation is the *Unit Pemimpin Pembangunan Masyarakat*. For Selangor (2014 - 2020) and Terengganu (2009 - 2011) where data are publicly accessible, CDF for ADUNs made up less than 3 percent of the total annual budget (see Table 6). Sarawak on the other hand allocated more than 9 percent of its annual budget on the ADUN allocation in 2019.

Table 6: Total Allocation of CDF in Selangor and Terengganu for ADUNs

SELANGOR				TERENGGANU			
Year	Total Allocations	Total Budget	% of the Total Budget	Year	Total Allocations	Total Budget	% of the Total Budget
2020	58,160,000	2,333,000,000	2.49	2011	46,400,000	1,887,000,000	2.46
2019	58,160,000	2,560,000,000	2.27	2010	25,600,000	1,881,000,000	1.36

2018	71,290,000	3,120,000,000	2.28	2009	17,600,000	1,799,000,000	0.98
2017	63,440,000	3,450,000,000	1.84				
2016	52,060,000	2,880,000,000	1.81				
2015	57,910,000	2,422,500,000	2.39				
2014	8,120,000	1,850,000,000	2.60				

Source: Selangor State Government, 2015; Selangor State Government, 2016; Selangor State Government, 2017; Selangor State Government, 2018; Selangor State Government, 2019; Selangor State Government, 2020; National Audit Department, 2011

## 4.2 Purpose and Distribution

The previous section has established the total amount of the MP/ ADUN allocation in the annual budget. The next question that should naturally be asked is how this total amount is distributed among the MPs and ADUNs. How much does each MP/ ADUN receive and for what purposes?

### 4.2.1 Federal CDF

It is well known that the opposition MPs did not receive any allocation when the Barisan Nasional coalition was in power. Only after Pakatan Harapan took over in 2018, did the government announce an allocation of RM100,000 for opposition MPs. The Perikatan Nasional government that came to power in March 2020 did not maintain this practice. Yet, it is still unclear how the remaining amount was distributed among government MPs. Does each MP receive equal allocation or not? If the allocation is different, what is the basis for such a difference?

As mentioned earlier, the funding for the MP allocation comes from two sources. The purpose and distribution rules for both are quite different. The *Projek Mesra Rakyat* allocation is primarily to provide public facilities or to build small infrastructure projects, not for donation or to run service centres. The Malaysiakini article on MP allocation refers to this allocation as an allocation for development projects (Kiniguide, 2020). *Projek Khas*, on the other hand, can be used for more diverse purposes, including running the service centre, providing donations to the poor and vulnerable, as well as providing assistance to NGOs, and building and maintaining small public infrastructures. MPs can use a portion of the allocation to fund their service centres.

Table 7: Projects allowed to be funded by MP Allocation

Type of projects	Projek Khas	Projek Mesra Rakyat
Construction, renovation and maintenance of small basic infrastructures such as bridges, jetties, trenches, drains, culvert, gabion, water tanks, roads, mosques, fences, bus-stop, and sport facilities	x	x
Construction and renovation of market or stalls for small businesses		x
Purchase of machinery or tools such as sewing machines to improve small businesses		x



Purchase and installation of furniture, fittings and tools used in public facilities such as mosques or community centres (examples of furniture and fittings are AC, carpets, curtains, and stationaries)	x	x
Purchase of musical instruments for cultural or art associations	x	x
Construction and renovation of houses for low-income families		x
Purchase of equipment for disabled people		x
Purchase of computers and other facilities for non-government organisations		x
Emergency assistance for communities affected by natural disasters	x	
Purchase of furniture for the non-Muslim house of worships	x	
Purchase of sports equipment including jersey and trophies and sponsor sports events/tournaments	x	
Grants or donations to community associations or clubs to fund their activities	x	
Funding or sponsoring motivation or skills-related courses (non-political)	x	
Donations for low-income families and disabled people	x	
Purchase of computers or sponsoring computer courses	x	
MP Service Centres	x	

Source: ICU, 2008; ICU, 2015

MPs receive different allocations under the three administrations. BN MPs received more allocation than PH and PN MPs (see Table 8). The following sections will try to explain the variations.

Table 8: Estimates of allocation for individual MP (2014 - 2021)

Year	Govt	Source 1: Special Allocation for the Prime Minister for Parliamentary Constituencies		Source 2: Projek Mesra Rakyat	Estimates of allocation for each ruling party MP	Opposition MP
		Service Center Operation	Small infrastructure projects, supply and donation			
2014	BN	RM100,000	Unknown	RM5,000,000	≥ RM5,100,000	No
2015		Unknown	Unknown	RM5,000,000	≥ RM5,000,000	No
2016		Unknown	Unknown	RM6,000,000	≥ RM6,000,000	No
2017		Unknown	Unknown	RM6,000,000	≥ RM6,000,000	No

2018	BN	Unknown	Unknown	About RM6,000,000	≥ RM6,000,000	No
	PH	RM300,000	RM800,000 to 900,000	Unknown	Between RM800,000 to 1,200,000	
2019		RM 300,000	Unknown			RM 100,000
2020		RM 300,000	RM1,500,000 (Peninsula) RM2,000,000 (Sabah)	RM2,000,000 (Not disbursed)	between RM3,800,000 to RM 4,300,000*	
	PN	Unknown	Unknown	Unknown	Unknown	RM 100,000
2021		Unknown. But according to Zahid Hamidi, PN MPs receive RM3.7 million, while backbenchers like him only receive RM100,000		Unknown	Unknown	No

Source: ICU, 2014; ICU, 2015; ICU, 2016, ICU, 2017; ICU, 2018; ICU, 2019; Wong Chen, 2019; Wong Chen, 2020; Yeoh, Hannah, n.d; Malaysiakini, 2020

\* In 2020, PH MPs only receive around RM800,000 as the PH government collapsed in March 2020. RM300,000 for service center and RM500,000 from Projek Khas allocation (Wong, Alethea, interview, 10 December 2020)

#### 4.2.1.1 Allocation under Barisan Nasional (2014 - 2018)

According to the ICU reports and guidelines, each BN MP received the same amount of allocation from *Projek Mesra Rakyat*. In 2014, for example, the report suggests that each BN MP received RM5 million under the *Projek Mesra Rakyat*, while in 2016 they received RM6 million.

Under *Projek Khas*, each BN MP received an allocation for the service centres. The ICU guidelines from 2014 suggest that in that year, each BN MP was allocated RM100,000 for their service centres. The fund will be disbursed monthly to the service centre account. We do not have information on this part of the allocation for the subsequent years.

For the remaining allocation from *Projek Khas*, the amount allocated to each BN MP was not equal. However, the basis for such differentiation was not clear. Table 8 shows the allocation of *Projek Khas* in three different states based on the 2015 ICU Annual Report. The table shows that the allocation for Penang, which had 3 Barisan Nasional MPs out of its 13 constituencies, was RM4,800,000. Meanwhile, the allocation for Negeri Sembilan, which had six BN MPs out of its eight constituencies, was RM30,620,676.20. If Penang's allocation were distributed to BN MPs only, each would receive RM1,600,000, while BN MPs in Negeri Sembilan would receive RM5,103,446. Based on this assumption, Penang MPs receive less allocation than the Negeri Sembilan MPs. Our research indicates that opposition constituencies received this allocation. However, instead of given to the opposition MPs, the allocation was disbursed to BN local party leaders (Shahril Hamdan, UMNO Youth Info Chief, interview, 23 October 2020). The ICU reports do not report allocation per constituencies, as such it is not clear whether opposition constituencies received the same amount of allocation as ruling parties' constituencies during BN's time. If we assume this allocation was distributed evenly to all constituencies, including

to opposition constituencies, Penang constituencies still received less than Negeri Sembilan constituencies (RM369,230 compared to RM3,827,585).

ICU reports suggest that cabinet members during the BN administration were given different allocations (see Table 4). It is not clear whether this different allocation is an addition to the allocation for parliamentary constituencies. Table 4 indicates that allocation for ministers and deputy ministers were not equal and the Prime Minister, as the 'owner' of the allocation, received a lot more than the Deputy Prime Minister.

Based on this patchy information, the allocation for each BN MP from 2014 - 2018 ranged between RM5,000,000 to RM10,000,000 (this is based on the calculation of Negeri Sembilan's allocation during the BN administration as seen above).

While opposition MPs did not receive allocation during BN administration, opposition constituencies receive development projects or assistance from CDF allocation. The 2015 ICU Report, for example, suggests that Pokok Sena, Pasir Puteh and Tumpat, which were under PAS in this period, benefited from the allocation. The allocation was used to build community centres in Pasir Puteh and Pokok Sena and a bridge in Tumpat (ICU Report CDF, 2015). The ICU reports did not specifically identify the actor involved in delivering this allocation. They certainly were not delivered by their MPs since the ICU guideline suggests that MP allocations were only for government MPs (ICU, 2014b). Possibly, these projects were delivered by either the Prime Minister or the Deputy Prime Minister or by a senator or ADUNs. Our interview suggested that such allocations can also be delivered by UMNO's party operatives who were appointed as "*pegawai penyelaras*" for the constituency (Shahril Hamdan-UMNO Youth Info Chief, interview, 23 October 2020).

#### 4.2.1.2 Allocation under Pakatan Harapan (2019 and 2020)

Pakatan Harapan MPs received different amount during their stint as ruling MPs in between May 2018 - March 2020. However, they had larger amount of allocation to run their service centres than BN MPs in 2014. PH MPs received RM300,000, as opposed to RM 100,000, to run service centres annually (YB Chan Foong Hin, Kota Kinabalu MP, interview, 9 December 2020). The total allocation for each PH MP however was smaller than BN MPs.

In 2018 they received the smallest allocation than BN MPs. We could not obtain ICU Guidelines and the 2018 ICU Annual Report did not report allocation for each MP. However, YB Wong Chen's constituency newsletter shows that the total allocation given to him in 2018 was RM1,200,000 (Wong Chen, January 2020, p. 18). The smaller allocation was partly because Pakatan Harapan came to power in the middle of the budget year and some of the allocation for MPs in 2018 were already spent by the BN MPs. The 2018 ICU Report did not disclose systematically the amount spent before and after the election. But it reports for example that 55.5 percent of *Projek Khas* allocation in Negeri Sembilan was spent before the election (ICU, 2018, p. 119) and that in Ketereh and Machang, which were successfully defended by UMNO in the 2018 elections, more than 80 percent of the allocation for *Projek Mesra Rakyat* was spent.

In 2019 PH MPs received more allocation than 2018. The 2019 ICU Reports showed that the allocation for *Projek Mesra Rakyat* was RM278 million; each MP received RM2 million (Pusat Khidmat Parlimen Subang, 2020). As for *Projek Khas*, the total amount was RM458.30 million. But this amount was not distributed equally. Based on our interview, each PH MP from peninsular constituencies received RM1,500,000, while each East Malaysia MP received RM2,000,000. The

MP continued to receive RM300,000 to run the service centre. Based on these estimates, an MP from the peninsula would have received RM3,800,000, while an East Malaysia MP would receive RM4,300,000. Wong Chen reported of receiving RM3.5 Million for community projects in 2019 (Wong Chen, 2020, p. 18).

In 2020, Pakatan Harapan government maintained the amount allocated to each MP (YB Chan Foong Hin, Kota Kinabalu MP, interview, 9 December 2020). PH government however changed the disbursement process for the RM 1,500,000/ RM2,000,000 allocation. Instead of disbursed by projects, the ICU disbursed a lump sum of RM500,000 at the beginning of the projects. MPs were required to submit detailed report for the use of this first RM500,000 before receiving the remaining amount (Wong, Alethea, Subang MP Special Officer, interview, 10 December 2020). So, by the time the PH government collapsed in March 2020, each PH MP would have received around RM800,000. Petaling Jaya MP's 2020 Annual Report (2021) and our interview with Kinabalu MP (2020) confirmed this. The remaining amount was not disbursed to them.

In 2019, the Special Projects Division (*Bahagian Khas*) at the ICU seemed to be given a new responsibility, which is to manage an allocation for small projects under the Ministry of Economic Affairs (*Projek Kecil MEA*). The ICU 2019 report does not disclose whether this project is also disbursed to the communities through MPs (ICU, 2019, p. 10). However, as in the case of *Projek Infrastruktur Asas* (PIAS), it is possible that the *Projek Kecil MEA* allocation was also disbursed to constituencies. One of the MPs in our consultation forum on 18 December 2020 suggested that MPs can also request funding from the Minister of Economic Affairs. It is possible that the *Projek Kecil MEA* is meant to fulfill such requests.

Pakatan Harapan government provided allocation for opposition MPs. In 2018, opposition MPs received RM200,000 (Free Malaysia Today, 2018). For 2019, it seems that the opposition was allocated RM100,000 (Free Malaysia Today, 2019).

#### 4.2.1.3 Allocation under Perikatan Nasional (March - December 2020)

Information about CDF under Perikatan Nasional is mostly available from news reports. ICU has not released the 2020 Annual Report when we are writing this paper. It is possible that the Perikatan Nasional government maintained the Pakatan Harapan government's distribution formula for their MPs in 2020. This means each Perikatan Nasional MPs would have received between RM3.7 million to RM4.3 million in 2020. Opposition MPs seemed to receive an allocation of RM100,000 in 2020. Subang MP and Petaling Jaya MP's Annual Reports confirmed this.

Based on Zahid Hamidi's statement, Perikatan Nasional seemed to maintain this distribution formula in 2021. According to the statement, Perikatan Nasional MPs is given allocation of RM3.7 million in 2021 except six UMNO MPs (Perak Insight, 2021). For 2021, according to Segambut MP, Hannah Yeoh, opposition MPs were not given any allocation (*Sinar Harian*, 2021).

Pakatan Harapan MPs in Selangor seemed to receive allocations from the Selangor State Government after the fall of the Pakatan Harapan Government in 2020 (*Pejabat Parlimen P105 Petaling Jaya*, 2021).

#### 4.2.2 State Level

Based on the information on Selangor and Perak, *Peruntukan ADUN* has an almost similar purpose as the *Peruntukan Ahli Parlimen*, which is to fund the four following categories of

activities:

- Service Center Operations which can cover salaries of service centres' staff, office equipment and renovation.
- Building and maintaining small infrastructure projects.
- People-friendly programmes such as dialogues with local communities.
- Donation for communities which includes cash assistance and emergency donations to the underprivileged, NGOs, and victims of natural disasters as well as grants to local NGOs.

Information about state CDFs is more challenging to find as some annual reports of district offices (*pejabat daerah*) that we read do not always publish the allocation in their annual reports. In the case of Selangor, some districts reported the allocation in the annual reports, but also in their websites. It is also challenging to find due to the sheer number of documents that we had to scour to get the information. Additionally, state governments, with the exception of Selangor in certain years, do not disclose the guidelines for the allocation and do not publish their annual estimates of expenditures. These two documents are important to understand the process of distribution of the allocation to the ADUNS and the total annual allocation in the state budget.

Therefore, this section is written based on limited information, but hopefully, it can shed some light on the CDF at the state level. The information will be based mostly on the information that we managed to find in five states (Selangor, Perak, Sarawak, Terengganu, and Sabah) from different sources, including interviews, some annual reports, guidelines, and news reports. A short observation from this exercise is that the amount given to each ADUN in each state varies depending on their state and their position in government. As mentioned before, at times, the state government had also provided allocation for their MPs.

### Selangor (2019)

In 2019, Selangor ADUNS were allocated between RM 730,000 or RM1 million (if they are members of the EXCO). Selangor used constituency size as the basis for different allocations and whether the ADUNS were appointed as EXCOs or not (See Table 9).

Table 9: Allocation of CDF in Selangor in 2019

Population	CDF Allocation
Below 30,000	RM730,000
30,000 - 45,000	RM780,000
45,000 - 60,000	RM830,000
Above 60,000	RM880,000

Note: Members of State Exco and the Speaker of State Assembly will receive an additional RM300,000. MPs also receive a separate allocation of RM6,000 to pay for three staff in their service centres (YB Edry Faizal, personal interview, October 13, 2020).

Source: *Pekeliling Perbendaharaan Bilangan 1 Tahun 2019: Garis Panduan Penggunaan Peruntukan Ahli Mesyuarat Majlis Kerajaan Negeri dan Ahli Dewan Negeri Selangor, Perbendaharaan Negeri Selangor*

In Selangor, BN ADUNs received an allocation of RM150,000 regardless of their constituency size in 2019. But their constituencies can benefit from the above allocation from the *Pegawai Penyelaras DUN*. The *Pegawai Penyelaras DUN* is usually appointed from members of coalition parties in these two states. In most cases the position is politically appointed by the state government, usually involving the losing ruling party candidate or those primed to contest against the incumbent in the next legislative session (Weiss, 2020). As such in Selangor, BN constituencies received the full amount of its allocation, but through two different sources: RM 150,000 from their BN ADUNs and the remaining from the *Pegawai Penyelaras DUN*. For example, Sungai Panjang was a BN Constituency in 2019. RM630,000 allocation was disbursed through the *Pegawai Penyelaras* and RM150,000 through its ADUN.

## Perak

In 2019, under Pakatan Harapan government, each Pakatan Harapan ADUNs received RM350,000. Allocations for the individual constituencies or ADUNs are determined by the State Executive Council (EXCO), comprising ADUNs from the ruling party and the *Menteri Besar* (YB Tan Kar Hing, ADUN Simpang Pulai, personal interview, 30 October 2020)

Opposition parties did not receive any allocation from the Pakatan Harapan government. But their constituencies were allocated RM50,000 through the *Pegawai Penyelaras* (YB Tan Kar Hing, ADUN Simpang Pulai, personal interview, 30 October 2020). The new administration in Perak that came to the office in December 2020 (UMNO) introduced equal CDF allocations for all ADUNs in December 2020 (Berita Harian, 2020). Each ADUN received RM200,000.

Table 10: Allocation of CDF in Perak

Ruling Coalition	CDF Allocation
UMNO-Perikatan Nasional (December 2020-Now)	All ADUNs: RM200,000
Perikatan Nasional (March-December 2020)	Unknown
Pakatan Harapan (May 2018 - March 2020)	Ruling Party ADUN: RM300,000 Pegawai Penyelaras DUN: RM50,000
Barisan Nasional (Before May 2018)	Ruling Party ADUN: RM300,000

Source: YB Tan Kar Hing, ADUN Simpang Pulai, personal interview, 30 October 2020; *Berita Harian*, 2020

## Sabah

In Sabah, under BN rule, each ruling party ADUN was given at least an RM1 million annually. In election years, the allocation was increased (YB Chan Foong Hin, Kota Kinabalu MP, interview, 9 December 2020). Sabah also provides an additional RM 1 million for ministers.



## Sarawak

For Sarawak ADUN, a news report (Malaysiakini, 2018) indicates that for the 2019 budget year, each GPS ADUN in Sarawak would be given a total of RM8 million (RM1 million for ADUN allocation, RM5 million from *Program Transformasi Luar Bandar* (PTL) and the remaining RM2 million from *Projek Kecil Luar Bandar* (PKLB).

### 4.3 Rules and Procedures

Countries with CDFs use different legal tools to regulate the practice of CDF. Some countries use legislation, such as Kenya. Others use executive decrees or administrative guidelines. Malaysia falls into the category of countries that use only administrative guides to regulate their CDFs. At the federal level, the guidelines for the MP allocation are issued by the Implementation Coordination Unit (ICU). At the state level, at least in the case of Selangor, the guidelines are issued by the State Treasury Office. ICU Guidelines are not publicly available on the ICU website, but some Selangor Treasury circulars on ADUN allocation are available on its website. This section will discuss them.

#### 4.3.1 Federal Level

The ICU released different guidelines for allocations managed by the Special Projects Division. In 2020, for example, the ICU released separate guidelines for *Projek Mesra Rakyat* and projects funded by *Projek Khas*. The discussions in this section are based on guidelines issued by the ICU in 2014 and 2020. These guidelines suggest that the rules of allocation can change from time to time.

The guidelines document outlines the objective of the funding, the projects and programmes that are and are not funded by the allocation, the Prime Minister's discretion in approving the allocation and the requirements to return the allocation to the ICU should the MP cease to be a lawmaker of the ruling party. The guidelines also outline mechanisms of distribution, procurement rules, the limits for certain activities and, more recently, in 2020, describe the reporting requirements and monitoring.

The ICU circulars provide detailed guidelines on how the allocation should be disbursed. The circular suggests that MPs only have limited direct access to the money. Under Barisan Nasional, MPs only had direct access to their CDF allocation for their service centres' operations and RM400,000 to provide cash assistance or donations to constituents (the allocation is part of *Projek Khas's* allocation). The RM400,000 fund was not disbursed to the MPs at once. It would be disbursed on request. The remaining allocation would be kept by the ICU or its branches in every state. The MPs were required to apply to use the remaining funds, including for small infrastructure projects.

Pakatan Harapan MPs maintained this system until the end of 2019. In 2020, the PH government issued a different system to disburse the allocation for MPs under the Special Allocation for the Prime Minister. Under this system, MPs have direct access to the RM300,000 allocation for service centres (which will be disbursed in a lump sum at the beginning of the budget year instead of paid monthly). Meanwhile, the allocation for community assistance and donations will be paid in three installments during the budget year (Wong, Alethea, Subang MP

Special Officer, personal interview, 10 December 2020). For projects funded by *Projek Mesra Rakyat*, MPs had to submit an application to the ICU.

The circulars provide limitations on the type of projects and activities that can be funded by this allocation. The allocation should be used to fund the construction, maintenance or improvement of small basic infrastructures, donation to the poor and disabled, and assistance to community clubs. Additionally, the guidelines limit the amount used for certain purposes. For example, MPs are not supposed to spend more than RM50,000 and RM10,000 for organising courses/ training for communities and for assisting the rehabilitation of local houses of worship, respectively. The MPs are also required to limit donations to local organisations to RM5,000. During BN's time, the guidelines limited assistance in emergencies to RM400,000.

The guidelines also regulate the rules of procurement of CDF projects. Most of the time, these rules are consistent with the procurement rules of the Treasury. For example, the procurement of works with a value between RM200,000 - 500,000 should be tendered out at least among five G2 contractors. But the MPs are also given a choice to provide the amount directly to the relevant organisations, and these organisations will procure the works.

#### 4.3.2 State Level

The circular issued by the Selangor State Treasury outlines the objective of the funding, disbursement process, type of projects and activities that can be funded by the allocation. Two elements stand out from Selangor's circular and are missing from the ICU guidelines: the responsibilities of the District Officer as the controlling officer of the fund and the amount allocated for each constituency.

ADUNs do not have full direct access to the allocation. The allocation will be transferred from the *Unit Perancang Ekonomi Negeri* (UPEN) to the District Office (*Pejabat Daerah*). The *Pejabat Daerah* manages the allocation for the ADUNs. ADUNs will be provided with advance provisions, but they will have to submit applications or claims to use the remaining funds. For this purpose, the ADUNs must either fill in a form addressed to the District Office or apply through an online system. In Sabah, the CDF application can only be filed manually (YB Chan Foong Hin, Kota Kinabalu MP, personal interview, 9 December 2020). Applications and claims are not automatically approved (YB Edry Faizal, ADUN Sungai Tua, personal interview, 13 October 2020). Approvals are subject to the submission of required documents and budget estimates. The District Office can disburse the fund directly to the recipients or contractors.

Procurement of CDF projects at the state level must comply with procurement rules issued by the Ministry of Finance. ADUNs or District Offices have to find at least three quotations before embarking on infrastructure projects above RM20,000. For projects below RM20,000, the ADUNs can appoint their own contractors (YB Edry Faizal, ADUN Sungai Tua, personal interview, 13 October 2020).

Table 11: Purpose of the allocation

ACTIVITY	SELANGOR (2019)	PERAK (2019)
Service Center Operations	Not exceeding RM72,000	RM60,000



Building and maintaining small infrastructure projects	At least 30% of the total allocation (each project should not exceed RM50,000)	RM150,000
People-friendly Programmes and Activities	Up to 70% of the total allocation <ul style="list-style-type: none"> <li>• Maximum RM10,000 for each donation</li> <li>• Maximum RM20,000 for each people-friendly programme</li> </ul>	RM150,000
Community and Emergency Donation		

Source: YB Edry Faizal, ADUN Sungai Tua, personal interview, 13 October 2020; YB Tan Kar Hing, ADUN Simpang Pulai, personal interview, 30 October 2020

## 5. POSITIVE FEATURES AND PITFALLS OF MALAYSIA'S CDFs

This section attempts to identify the strength and pitfalls of the current structure of Malaysia's CDF. The allocation was meant to address welfare and development gaps in the constituencies. Newspaper reports and reports released by the ICU and *Pejabat Daerah* show anecdotal examples of deliveries of this allocation to the constituencies. The MPs and ADUNs also provide examples of how the allocation given to them addresses the constituency's immediate development and welfare needs, especially in rural areas. Among the examples were maintenance and repair of educational and health facilities, assistance to help with low-income families' immediate daily needs. In the current pandemic, the ADUNs and MPs have used the allocation to provide food assistance to vulnerable communities and families in their constituencies.

Based on our examination of the current rules and practices, Malaysia's CDF has decent check and balance measures that can contribute to its objective to address development gaps and expedite service delivery. However, the current system also has many limitations.

### 5.1 Positive features

In this section, we identify the features of the current CDF that contribute to ensuring the allocation reaches the constituency and achieves its objective to address development gaps and expedite service delivery. Among these features are:

#### **1. Clear allocation for addressing some welfare and development gaps.**

As discussed in the previous section, a substantial portion of the CDFs is allocated to construct and maintain small infrastructure projects and address the constituencies' welfare needs. Allocation for MP's service centres only constitutes a small portion of the allocation. The rules issued by the ICU and *Pejabat Daerah* are also particular about the type of projects that can be funded by the allocation. Such particularity can help to prevent lawmakers from funding projects that are already funded by other allocations in the annual budget.

## **2. Single managing agency**

CDF allocation at both the federal and state levels is respectively managed by a single government agency. The disbursement of federal-level CDF is managed by ICU, which is tasked to monitor and evaluate the implementation of Malaysia's five-year annual plan and has branches in every state. The disbursement of state CDFs, on the other hand, is managed by the District Office (*Pejabat Daerah* or *Pejabat Daerah dan Tanah*). India adopts an almost similar approach; where a single agency manages both the state and federal CDFs.

The management by a single agency allows consolidation of various sources and uniformity of distribution and disbursement process. Theoretically, both the ICU and *Pejabat Daerah* can check proposals of funding submitted by MPs and ADUNs against long- and short-term development plans at the federal and state levels. They can evaluate whether the proposals are consistent with government priorities or similar programmes have been funded. However, it is unclear whether coordination occurs between the ICU with District Offices (*Pejabat Daerah dan Tanah*), essential to avoid potential duplication of the projects proposed by MPs and ADUNs of the constituency. This problem can be minimised by the coordination between the MPs and ADUNs themselves. For example, in Gopeng, Perak, the Simpang Pulai ADUN coordinates with the Gopeng MP before proposing projects (YB Tan Kar Hing, ADUN Perak Simpang Pulai, personal interview, 30 October 2020). However, as mentioned earlier, such coordination is possible mainly because the MP and ADUN are from the same party (PKR).

Additionally, the ICU and District Offices are subject to all types of audits (financial, compliance and performance) by the National Audit Department. Such audits should minimise the possibility of non-compliance to the official disbursement procedures and ensure the allocations reach their intended recipients and achieve their objectives. However, we only found an audit of CDF Terengganu in 2011 in the publicly available audit reports.

Furthermore, CDFs are governed with circulars and guidelines issued by the ICU (for federal level) or State Treasury for the state level. The circulars outline the sources of the allocation, the purpose and the process of disbursement. Such circulars help minimise potential abuse by any stakeholders. In some way, the circulars also provide a precise accountability mechanism for all parties involved, including MPs and ADUNs. Unfortunately, except for Selangor, these circulars and guidelines are not publicly available.

Finally, the ICU and some *Pejabat Daerah* release annual reports to the public. These reports disclose some key information to the public, such as the total amount of allocation, the amount spent in each state and the total number of projects funded by the allocation. *Pejabat Daerah* Kuala Langat, as mentioned earlier, provides monthly updates on the CDF implementation. The disclosure still has some limitations, but the public can use the information to monitor it. Additionally, the ICU also requires contractors of physical projects to display a signboard bearing the project's name, the contractor's name, and the project timeline (see pictures 1). While they do not reveal the amount of funding used for the projects, the signboards allow the public to be informed about the project and facilitate accountability.

## **3. Lawmakers did not fully manage the allocation**

Another positive feature of the current structure is that the MPs and ADUNs do not directly manage and distribute the total amount of the funding. As discussed earlier, the ICU and *Pejabat Daerah* are responsible for managing and disbursing most of the allocation. This

arrangement can minimise the use of allocation for personal use or partisan purposes. For example, a Selangor ADUN shared that the *Pejabat Daerah* did not approve his application for funding certain associations because the documents submitted were not complete (YB Edry Faizal, ADUN Selangor Sungai Tua, , personal interview, 13 October 2020). Additionally, the disbursement process of the allocation and procurement activities involving the allocation are subject to Treasury rules.

## 5.2 Pitfalls

The current system also has many limitations that not only render the CDF to be identified as the ruling party's political tool but also reinforces the current clientelist relationship between voters and politicians. Additionally, as the MPs and ADUNs have minimal time for legislative works, the allocation further distances them from carrying out their main job to legislate and monitor the executive.

### 1. Denial of allocation to opposition lawmakers

The absence or lack of opposition MPs/ ADUNs' access to the allocation is the biggest pitfall that is often raised by many. Except for the recent occurrence in Perak, opposition MPs and ADUNs have been denied equal access to the allocation. The denial of access was meant to marginalise opposition lawmakers from their constituencies because without CDFs, opposition lawmakers cannot assist local communities as ruling party lawmakers do. The creation of the *pegawai penyelar* by ruling parties to disburse the allocation to the constituencies further strengthens the intention of ruling parties to marginalise opposition MPs/ ADUNs from their constituencies. While this solution may help maintain CDF as a decentralisation tool, the MP/ ADUNs allocation becomes purely political. By using the *pegawai penyelar* to disburse the fund, the allocation will be opaquer, and probably less effective, as the names of *pegawai penyelar* are relatively unknown to the public. Disbursing the allocation to *pegawai penyelar* may defeat the purpose of CDF as a policy tool to address development gaps.

The refusal to give opposition funds also has another implication. As elected representatives are expected to contribute to their respective constituencies and local development, MPs/ ADUNs will look for other funding sources to fulfil this expectation. One of the ways that the MP/ ADUNs can do to fulfill the clientelist demands from their constituencies is to join the ruling party formally or informally. Refusal of access of opposition MPs/ ADUNs to CDF therefore can breed the practice of party hopping. Concerns over local development have been cited as the reasons for the defection of three opposition federal lawmakers: Bagan Serai, Labuan and Lubok Antu as well as three state lawmakers: Buntong in Perak, Kuala Penyu and Sugut in Sabah (Wong, 2020: Parliament as Prime Minister's Electoral College, p. 8)

For MP/ ADUNs who are not willing to defect, they are forced to use their personal funds and savings to provide assistance and grants to their constituents. Sometimes they can raise funding from private sources. The latter practice is worrying if there is a possibility that this will breed a gift-giving culture in return for favours by external parties (Shahril Hamdan, UMNO Youth Info Chief, personal interview, 23 October 2020; YB Tan Kar Hing, ADUN Perak Simpang Pulai, personal interview, 30 October 2020).

## **2. The executive's high level of discretion in deciding the allocation**

The decision-making process of the CDF allocation is quite opaque. For federal CDF, the Prime Minister seems to have total discretion over the allocation for the MPs. He seems to have an extremely high discretion on the total allocation and the amount given to MPs. CDF, in this way, becomes a tool that can be used by the sitting prime minister to consolidate his/ her power. In a time of crisis that may pose an immediate challenge to his position, the Prime Minister can use the allocation to entice certain MPs' support to sustain his/ her control of the office. Our discussion with some MPs from across the political spectrum indicated their shared concerns regarding the Prime Minister's control over the CDF.

At the state level, the decision-making for CDF allocation is less based on individual decisions. In Perak, for example, the decision is made by Exco Members with the State Treasury. But further research is needed to determine whether other states have the same practice as Perak. While the decision at the state level is not based on one individual, ADUNs involved in the decision-making have a conflict of interests: they decide the allocation given to themselves. Additionally, as mentioned earlier, the CDF risks becoming a bargaining tool for the executive to minimise ADUN's role in providing checks and balances.

High discretion of the executive in deciding the CDF could be partially caused by the absence of a formal transparent rule on CDF. Except for Selangor in limited cases, guidelines for MP/ ADUN allocation are not publicly available and the allocation is not clearly stated in the annual budget. A specific legislation or enactment on CDF, like CDF legislation in other countries, may help to reduce this high level of discretion.

## **3. Poor Disclosure**

As mentioned earlier, publicly available annual budget documents do not clearly disclose the source of the allocation. Some information about this allocation is available from annual reports of the managing agencies. But these reports are not always up to date, and each report has a different level of disclosures. The key information that will be mentioned below is not easily accessible by the public. The absence of this key information is detrimental to the legitimacy of CDF as a positive policy tool. It does not encourage meaningful accountability and enforce patronage politics because voters think that the assistance they received is a personal donation from the MPs instead of budgetary measures financed by the government budget. Below is the key information that is missing from the current disclosure:

- The item "*peruntukan ahli parlimen*" and "peruntukan ADUN" are not in the budget documents. Therefore, it is exceptionally difficult for the public to know the total allocation for CDFs in the annual budget.
- The ICU Annual Reports do not consolidate the total allocation for CDF purposes, nor does it show the total allocation given to each parliament member from various sources. The Members of Parliament rarely disclose to the public the amount allocated to them annually too.
- The ICU Annual Reports do not disclose the type of projects or assistance delivered to the public. Without this information, the public would not know the percentage of this allocation used for small infrastructure projects, MP service centres, charities, and donations. It is also difficult for the public to ascertain whether the allocation has

achieved its intended objective: to complement the five-year development plan and expedite service delivery to the public. What is clear is that the CDF gave sitting MPs an unfair advantage to influence their constituents compared to their challengers.

- At the state level, some *pejabat daerah* in Selangor provide reports on the implementation of the peruntukan ADUN. For example, the Kuala Langat *Pejabat Daerah* provides a monthly update of the implementation. Unfortunately, such practice is not common.

It should be mentioned here that some MPs, especially Pakatan Harapan MPs, reported to the public the use of their allocation. The office of YB Wong Chen, MP for P104 Subang, produces financial statements and reports that contain specific breakdowns of the allocation used. This information is published in the constituency newsletter that his office published twice a year. YB Hannah Yeoh (P117 Segambut) reports in detail each use of the allocation (Yeoh, 2008 - 2020). Other MPs and ADUNs create 'report cards' yearly to inform their constituents of the projects they have done throughout the year using the allocation. Unfortunately, the allocation's total breakdown is not clearly stated. Such limited disclosure does not allow public scrutiny.

#### **4. Poor public participation**

There are some forms of public participation in the process of deciding CDF projects. In fact, most of the CDF projects are likely based on requests from communities. A Perak ADUN, for example, shared that he consulted village chiefs for small-scale community projects (YB Tan Kar Hing, ADUN Perak Simpang Pulai, personal interview, 30 October 2020). However, these consultations are not as formal and institutionalised as other countries with CDF like Jamaica and Kenya, and therefore do not adequately provide participation opportunities to the public. The public is not heavily involved in the planning stage; this decision is fully in the hands of the MPs and ADUNs. The MPs and ADUNs can also reject the request from communities and are keener to fund urgent projects.

#### **5. Operates in weak legislative oversight**

One of the concerns that scholars express over the CDFs is it encourages the representatives to prioritise constituency services over legislative works. This factor needs to be taken seriously because our legislative members currently do not have adequate time to play their primary role to pass legislation and scrutinise the government's policies and their implementation. Malaysian MPs only sit 68 days annually, while ADUNs sit even less. State legislative sessions range from 5 days in Terengganu to 20 days in Johor in 2019 (see Table 12). Such a short time can be attributed to the limited areas in which states have jurisdictions over. As such, ADUNs do not deal with passing legislation as frequently as their counterparts at the federal level. The presence of allocation that can be used by the MPs/ ADUNs to carry out community services will further encourage them to prioritise constituency services over legislative works.

Table 12: Number of Parliament and DUN sitting days in 2019.

Legislative Bodies	Number of Sitting Days
Federal Parliament	68 Days
Johor DUN	8 Days
Kedah DUN	5 Days (2020)
Melaka DUN	7 Days (2020)
Pahang DUN	11 days
Perak DUN	10 Days
Sabah DUN	13 Days
Sarawak DUN	10 Days
Selangor DUN	17 Days
Terengganu DUN	11 Days
Negeri Sembilan DUN	8 Days
Kelantan DUN	5 Days
Perlis DUN	7 Days
Penang DUN	11 Days

Source: Parliament of Malaysia, n.d.; Johor State Legislative Assembly, n.d.; Berita Harian, 2019; Berita Harian, 2020; Astro Awani, 2020; Sinar Harian, 2020; Pahang State Government, n.d.; Perak State Government, 2019; Sabah State Government, 2019; Sarawak State Legislative Assembly, n.d.; Selangor State Legislative Assembly, n.d.; Terengganu State Legislative Assembly, n.d.; Perlis State Government, n.d.; Penang State Legislative Assembly, n.d.

## 6. De facto political campaign funds

The circulars issued by the ICU clearly state that the allocation should not be used for political activities or to fund political organisations. However, the fact that opposition politicians are either denied access or only given partial allocation strengthens the assumption that CDFs are strategic to increase or gain voters' support. CDFs can be used strategically to boost the chance of incumbent MPs/ ADUNs to get re-elected in general/ state elections or elected in the party election. Additionally, MPs or ADUNs may choose projects and groups that have the potential to increase political support. In some cases, as one representative told us, MPs/ ADUNs can donate to non-government organisations that are directly or indirectly linked to him/ her or his/ her political parties. In that way, MPs/ ADUNs help to support the machinery of their parties and, at the same time, build their own.

## 6. RECOMMENDATIONS

There have been calls from various quarters to any sitting government to provide an equitable allocation for opposition politicians. We view this call as one important step to reform the allocation. However, equitable distribution should not be the final objective of the reform. Equitable distribution may address some competition problems in our political system caused by the allocation and unfair treatment of opposition constituencies. But equal distribution does not address the issue of transparency nor the high discretion of the executive in deciding allocations. Most importantly, equal distribution will continue exacerbating the current unhealthy

relationship between politicians and their voters and encourage the politicians to devote their time mostly to community work instead of their legislative duties. There is a need for a broader effort to address the clientelist nature of our politics and move it towards being more policy-based. Reforming the CDF is one of the ways to address this problem. The recommendation of this paper attempts to contribute to reducing such problem while addressing governance weaknesses of the allocation. In the long term, this paper attempts to reposition the CDF in our political and public finance system.

This section, therefore, will be divided into two sections. The first section will discuss the intended outcome/ output of the reform (how the allocation will look like if reforms happen) and necessary reforms to achieve the outcome. The second section will discuss immediate reform recommendations that can help address governance weaknesses in the current system. The final section will discuss how the path to the reform will look like. It outlines the steps that can be taken by the government to achieve the long-term intended outcome.

## 6.1 The long-term intended outcome

How do we see the allocation for *Peruntukan Ahli Parlimen/ ADUN* in the future?

Before answering this question, we want to acknowledge that the allocation has been used to address small infrastructure gaps, community development, and welfare assistance at the constituency level. Anecdotal examples show that this allocation has allowed MPs and ADUNs to aid the economically marginalised and vulnerable members of communities. The allocation has also helped communities maintain basic public amenities such as roads, drainage, centres of worship, community centres, and sports facilities. At the same time, the allocation has also helped ADUNs and MPs run their service centres to provide services to local communities, including assisting them to receive aid directly from them or relevant authorities. However, we should also acknowledge that the allocation has reinforced the notion of patronage politics and a clientelist linkage between representatives and their voters. Voters evaluate the performance of MPs and ADUNs based on the “pork” that they directly deliver to the communities, instead of their performance in passing legislation and policies. The allocation has also given incumbent MPs and ADUNs an unfair advantage in local and national politics as well as within their own political parties. In the long run, these will further erode Malaysia’s quality of democracy.

To improve the quality of representative democracy, one may argue that any type of CDF in Malaysia should be abolished. However, this solution ignores the positive role that the allocation has played and the potential negative implication on the infrastructure development, community programmes and welfare of the constituencies, especially in rural areas.

Our recommendation takes into account these points and ***aims to maintain the purpose of the allocation but change its gatekeeper***. Instead of giving MPs and ADUNs the responsibilities of delivering all purposes of the allocation, we propose to shift some of these responsibilities to other entities in the administration structure.

The current allocation funds the following purposes:

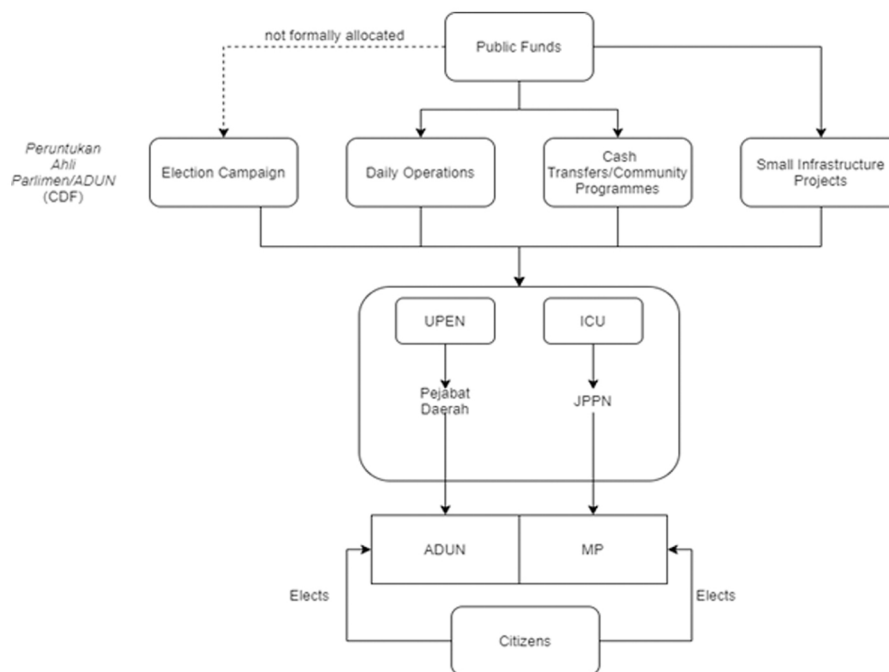
- Community-based development project and assistance that can help closing development gaps caused by the delay in delivery by the central or local government
- Cash-assistance for vulnerable groups and grants for local citizen groups or non-government organisations.



- MP and ADUNs service centres facilitate MPs' engagement with their constituencies, including helping their voters access services and assistance provided by relevant authorities.
- Unfortunately, as mentioned earlier, the allocation has also served as "covert" campaign funds for the MPs/ ADUNs and their parties. Therefore, in reality, the allocation funds four important purposes.

In the current arrangement, the MPs/ ADUNs play a very central role in deciding and delivering the allocation. They are the gatekeepers of the allocation (see Diagram 1).

Diagram 1: Current Structure of CDF



Note: UPEN stands for State Economic Planning Unit (Unit Perancangan Ekonomi Negeri); ICU for Implementation Coordination Unit; JPPN for Department of Registration of State Societies (Jabatan Pendaftaran Pertubuhan Negeri); ADUN for State Legislative Assemblypersons (Ahli Dewan Undangan Negeri); MP for Member of Parliament.

This research helps us to reconsider whether MPs and ADUNs should keep playing the central role in delivering these funds in the future. Our study on CDF practices in other countries shows that even in relatively well-governed CDF structures such as India and Kenya, abuses and inefficiencies of CDF disbursement are still happening.

As such, **our long-term solution is to stop MPs/ADUNs from playing the role of gatekeeper of the first two purposes of the allocation** (see Diagram 2). **The future gatekeeper for the funding for community-based development projects and assistance and cash-assistance for vulnerable groups should be an elected local government.** Instead of channeling the money to MPs/ ADUNs programmes, the ICU and UPEN (or District Office) or other relevant agencies in the future will disburse funding that was intended for community development projects to the local councils. Disbursing the allocation to the local council will limit the conflict of interest between the legislative and executive branches of government and take the burden off legislators, allowing



them to fulfill their legislative duties better. By redirecting the funds to local governments, it gives them more capacity to fulfil their roles by implementing community projects and engagement. In fact, this can be an opportunity to introduce a participatory budgeting programme, in which local communities build consensus in deciding the use of the allocation.

One may argue that giving the allocation to the local council does not solve the potential accountability problem. As such, this recommendation should go hand in hand with the reintroduction of local elections. Local elections are key to making this allocation accountable because if the current framework stays, accountability will remain a problem. After all, the state government appoints the local councillors. Such appointments run the risk of local councillors being heavily influenced by local area MPs or ADUNs who often hold higher party positions in making decisions about the allocation. However, by introducing elections for local executive positions such as mayor, we could introduce this democratic mandate. The elected local council should also be mandated to undergo a consultation process in deciding the use of the allocation. Such mandate can be built-in into the local election legislation, or in new legislation that will separately regulate the use of this allocation. If the latter path is being chosen, this legislation can also be used to set fiscal rules on the allocation such as its percentage from the total annual budget and set a higher standard of transparency and accountability.

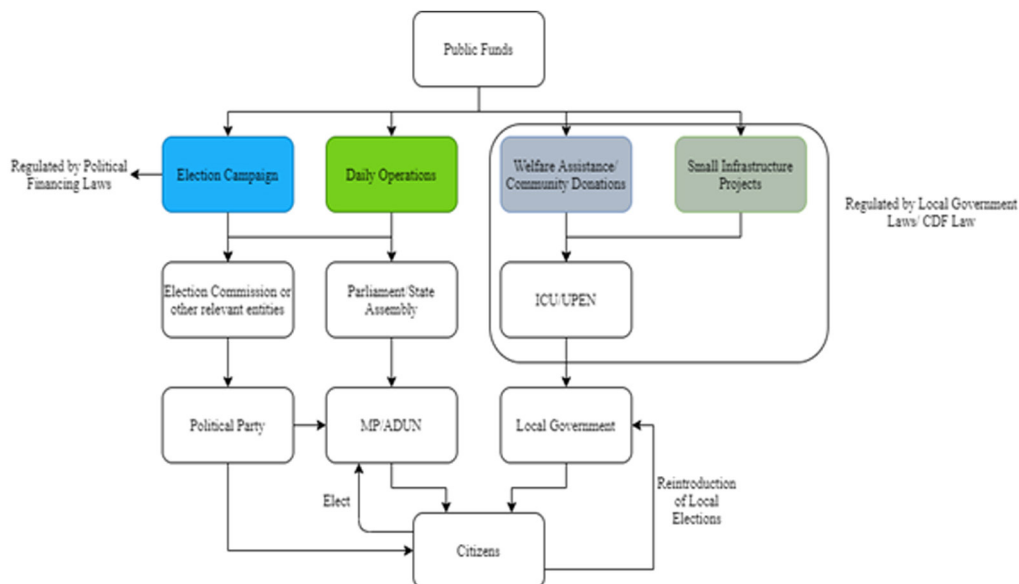
**In this new model, MPs/ ADUNs will continue to receive funding for their service centres.** They can use this funding to carry out their legislative and community works. However, the ICU or UPEN should no longer disburse the fund. **It should be made available to the MPs/ ADUNs through Parliament or the State Assembly Office.** All MPs/ ADUNs should be given equal allocations. If any differentiation is made, it should not be based on political affiliation. The differentiation can instead be made based on the size of the constituencies, for example. This funding is meant to support MP's legislative works such as research and dialogue with communities. MPs can still act as enablers or facilitators for the public to get funding or assistance from relevant government officers, and this funding will enable them to provide such services. **However, this funding should not be used by the MPs/ ADUNs to aid the members of communities** directly.

In this context, the reinstatement of the Parliament Services Act 1963 becomes especially important. The repealed Act gives the legislature the power and freedom to conduct its administration, staffing and financing. The Act will strengthen the parliamentary institution and give them more autonomy. Additionally, the Member of Parliament (Remuneration) Act 1980 can be amended to allow for the allocation of money for parliamentary service purposes, but not for political parties. Parliament can also enact new independent statutory authority such as Australia's IPEA (the Independent Parliamentary Expenses Authority) & UK's IPSA (the Independent Parliamentary Standards Authority). These independent authorities are responsible for advising, reporting and auditing parliamentarians' expenses and their staff. In addition to these measures, it is pertinent to increase our representatives' sitting days so they can devote more time to carry out legislative and oversight works.

Under this new model, MPs/ ADUNs will not have many resources to spare to indirectly fund local party operatives. But we know that the need for such funding is real. Political parties need separate state funding to run political campaigns, including funding their local branches. For this to happen, Malaysia needs a Political Financing Law that will allow state funding for political parties and regulate the funding sources from the annual budget. State funding to political parties will partially eliminate local party operatives' reliance on funding from MPs/ ADUNs who

receive an allocation for their operations. Consequently, this will slightly reduce the advantage of MPs/ ADUNs in intra-party politics.

Diagram 2: Proposed Long-Term Structure



Note: UPEN stands for State Economic Planning Unit (Unit Perancangan Ekonomi Negeri); ICU for Implementation Coordination Unit; ADUN for State Legislative Assemblypersons (Ahli Dewan Undangan Negeri); MP for Member of Parliament.

The proposed reform to the current allocation for the MPs/ ADUNs requires several supporting legal frameworks including but not limited to: the introduction of local government election, the reinstatement of the Parliamentary Services Act, the amendment of Members of Parliament (Remuneration) Act, and the introduction of political financing law with an element of state funding. There are also changes to the management of the budgetary allocation. The proposed reform will require the allocation to be parked in different agencies/ministries. It, therefore, will no longer be under the Prime Minister's Department budget. The allocation of community development projects can be parked either under the Ministry of Rural Development or the Ministry of Urban Housing. In contrast, the allocation for MPs service centres should be parked under the allocation for parliament. Whichever arrangement is taken, the allocation should be listed as one budget item and disclosed in the annual budget documents.

## 6.2 Immediate reform recommendations

However, there are pitfalls in the current structure that can be addressed immediately. This immediate reform will help improve the current system and pave the way to the proposed reform.

The first immediate reform that should take place in the next two years is **to remove the executive discretion over the allocation decision**. At both the federal and state level, such removal can be carried out by clearly listing the allocation in the annual budget. The allocation will have a better chance to be scrutinised and even amended by legislatures and the public. This practice can be complemented by **disclosing the total amount allocated for this purpose and the amount given to the individual MPs at the start of the budget year**. Such disclosure can

be made by implementing agencies (ICU and District Office) and the individual MP or ADUN. A dedicated website or a government portal is ideally established for this purpose. A good example of this would be the Indian government's website for their MPLADS programme.

Another way of removing the executive discretion of the allocation decision is to move the allocation entirely to the Parliament or State Assembly Offices. The ICU and District Office can continue managing the allocation, but they should report to Parliament or State Assembly Office. Another option is for the Parliament and State Assembly Offices to establish their implementing agencies, but this will require additional resources, including the need for reinstating the Parliamentary Services Act. Moving the allocation to the Parliament Office can help transition to the proposed structure. But such a move will have to be accompanied by reducing the allocation intended for community services works. If the allocation is to be moved to Parliamentary Office or State Assembly Office, the above disclosure requirements should also apply.

Another immediate reform measure is **to make CDF disbursements equitable**. We recommend an equal distribution across all MPs or state representatives to ensure fairness. Suppose any standards or metrics are to be adopted, in which case, it must not be based on political affiliation but rather a needs-based approach, which can evaluate the necessity of funds for a particular constituency. Several examples of these formulas include the number of voters per constituency or the median income of constituents. These metrics must also be made public and revised regularly.

Another immediate measure that can be adopted is **creating a platform that facilitates close coordination between agencies responsible for federal and state CDF disbursements**. Such a platform will reduce the potential of duplication between projects proposed by the MPs and ADUNs. In its current implementation, ICU and Pejabat Daerah have full control over their respective CDF disbursements. Such control increases the opacity of the fund and the probability of project overlaps and inefficiencies. While state CDFs should draw from state incomes and be supervised by state governments, efforts should be made to ensure coordination between implementing agencies.

The relevant implementing agencies can revise their guidelines and make them public. But Malaysia can also opt for having **a CDF legislation that will legally mandate the publication of the key information to the public. CDF legislation can also outline the source of financing and the distribution formula to the lawmakers.**

### **Box 3: CDF Legislation**

There is no universally agreed practice or concept of CDF among countries that practiced it. Not every country with CDF has adopted CDF legislation. But here are some examples of countries with CDF legislation.

#### **KENYA: The National Government Constituencies Development Fund (NGCDF) Act 2015.**

- Outlines the key principles of Kenya's CDF including inclusiveness, sustainable development and public participation.
- Outlines the formula for distribution.
- Mandates the establishment of the Constituency Oversight Committee to oversee the implementation and receive feedback from the public. It comprises members of the public and representatives of the national assembly.
- Compels the Minister for Finance to allocate not less than 2.5 percent of all collected government ordinary revenue every financial year for development programmes in the constituencies.

#### **GHANA: District Assemblies Common Fund (DACF) Act 1993.**

- Requires parliament to set aside not less than 5% of the Gross National Income. The fund is taken from the Consolidated Fund and paid into the District Assemblies Common Fund Account.
- Requires the administrator of the fund to annually propose a formula for distribution of DACF resources for approval by Parliament. The formula is proposed at the beginning of each fiscal year and is based on the outcomes of the previous year's formula. The formula is considered by the Parliamentary Committee and subsequently approved by the House.

#### **ZAMBIA: CDF Act 2018**

- Provides greater protection against embezzlement and misappropriation by subjecting the abusers to either fines, imprisonments or both.
- Requires the established citizen committee to oversee the implementation of the fund.

### **6.3 How the path to reform looks like**

The list of recommendations put forward in the previous pages are quite overwhelming. This section lays out the potential path of reform that Malaysia can take to achieve the long-term target/ outcome that was discussed in section 6.1 in a table format.

	Immediate Term	Short Term	Medium Term	Long Term
TARGET	Malaysia has: A transparent Constituency Development Funds that is distributed equitably and accountably among MPs/ ADUNs	Malaysia has: A transparent Constituency Development Funds that is distributed equitably and accountably among MPs/ ADUNs	Malaysia has the following: <ul style="list-style-type: none"> <li>• A transparent Constituency Development Fund that will help the community address local development needs. MPs/ ADUNs will remain the gatekeeper, but the local council should be more involved. The funding will be solely for community services and infrastructure. The funding should be regulated by legislation.</li> <li>• A separate transparent allocation for MPs/ ADUNs service centers and legislative works/ activities that is disbursed by Parliament</li> </ul>	Malaysia has the following: <ul style="list-style-type: none"> <li>• A transparent Constituency Development Fund that will help community address local development needs but not managed by MPs/ ADUNs but elected local council and regulated by legislation.</li> <li>• A separate allocation for MPs/ ADUNs service centers and legislative works/ activities that are disbursed by parliamentary services.</li> <li>• A separate allocation for political parties to assist them in their campaign activities</li> </ul>

<p>WHAT NEEDS TO HAPPEN</p>	<p>Revise the current circulars or guidelines that will facilitate the following:</p> <ul style="list-style-type: none"> <li>• Naming the allocation properly in relevant government documents especially in the publicly available budget documents. If sources for the allocation comes from the budget of several ministries, the sources should be stated clearly.</li> <li>• Setting distribution formula</li> <li>• Disclosing the formula and the actual amount in relevant government documents</li> <li>• Disclosing the use of the funding by relevant agencies.</li> </ul>	<p>Pass a CDF legislation that will contain the following:</p> <ul style="list-style-type: none"> <li>• The allocation formula for each constituency</li> <li>• The source of financing in the annual budget, including to compel the administration to use the CDFs name in the budget documents clearly. The legislation can also limit the amount of allocated for the CDFs annually.</li> <li>• Requirements for relevant agencies and lawmakers to publish key information about CDFs to the public.</li> <li>• Mechanisms for public participation in the formulation, implementation, and monitoring of the CDFs.</li> <li>• Any forms of sanctions for misusing or embezzling the CDFs</li> </ul>	<ul style="list-style-type: none"> <li>• Amendment to the CDF legislation (if it is passed in the short-term phase) to reflect the target above.</li> <li>• The reinstatement of the Parliament Services Act 1963</li> <li>• Amendment to the Members of Parliament (Remuneration) Act 1980 to allow for the allocation of money for parliamentary service purposes</li> </ul>	<ul style="list-style-type: none"> <li>• Amendment to the CDF legislation (if it is passed in the short-term phase) to reflect the target above</li> <li>• Political Financing Legislation</li> <li>• Local Council Election</li> </ul>
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