22

Fiji's electoral boundaries and malapportionment

Kesaia Seniloli

It has been claimed that demographic distribution and the drawing of constituency boundaries together had significant impacts on the outcomes of Fiji's 1999, 2001 and 2006 elections. In part, this was due to constitutionally entrenched provisions by which Fiji's parliament mainly comprises members from 'communal' constituencies – currently 23 for the ethnic Fijians, 19 for the Fiji Indians, three for the General voters and one for the island of Rotuma – and a number (since 1997, 25) of open constituencies, with the boundaries drawn in such a way that 'voters should comprise a good proportion of members of different ethnic communities'.[1] The Constituency Boundaries Commission (CBC) could do little about the constitutionally entrenched provisions. Nevertheless, many commentators felt that the 25 open constituencies were insufficiently heterogeneous. Furthermore, prior to the 2006 poll, many political parties claimed that substantial population movements over the period 1998 to 2006 necessitated some redrawing of the open constituency boundaries. The aim of this chapter is twofold. First, it outlines the process of electoral boundary demarcation for the 1999 election. Second, it explains the implications of the use of the 1998 boundaries in the 2006 election. It concludes with some reflections about the future.

Delimitation of constituencies in Fiji, under the Constitution (Amendment) Act 1997, was an enormous undertaking in terms of time and resources. Delimiting was complicated because four different sets of boundaries had to be drawn – one set each for urban Fijian, General voter, ethnic Indian and

the open constituencies. In addition, three provinces each had to be divided into two constituencies. The determination of the electoral boundaries by the CBC in 1998 was final and could not be challenged through the courts; it was intended to serve for the 1999 elections. However, these same electoral boundaries were also used in the elections of 2001 and 2006.

Accurately delimited electoral boundaries ensure geographic representation for areas that may otherwise be neglected, and may improve the accountability of representatives to their voters.

The legal framework (structure and rules)

The distribution of seats in Fiji's House of Representatives is determined, as follows, by section 52 of the 1997 constitution:

> (2) In determining the boundaries of the constituencies for the election of members to the communal seats to be filled in accordance with subparagraph (51)(1a)(i), the Constituency Boundaries Commission:
>
> (a) must ensure that the boundaries for 17 of the constituencies are in accordance with the provincial boundaries prescribed under the Fijian Affairs Act and that, subject to paragraph (b):
>
> (i) the provinces of Ba, Tailevu and Cakaudrove comprise 2 constituencies each; and
>
> (ii) the other provinces comprise 1 constituency each;
>
> (b) must ensure that the remaining 6 constituencies comprise predominantly urban or peri-urban areas in which the number of voters is, as far as reasonably practicable, the same; and
>
> (c) subject to paragraphs (a) and (b), must give due consideration, in relation to each proposed constituency, to:
>
> (i) the physical features of the proposed constituency;
>
> (ii) the boundaries of existing recognized traditional areas; and
>
> (iii) means of communication and travel within the proposed constituency.
>
> (3) In determining the boundaries of the other constituencies, the Constituency Boundaries Commission:
>
> (a) must try to ensure that the number of voters in each communal seat (other than a communal seat referred to in subsection (2)) is, as far as reasonably practicable, the same;
>
> (b) must try to ensure that the number of voters in each open seat is, as far as reasonably practicable, the same; and
>
> (c) subject to paragraph (a) or (b), must give due consideration, in relation to each proposed constituency, to:

(i) the physical features of the proposed constituency;
(ii) the boundaries of existing administrative and recognised traditional areas;
(iii) means of communication and travel within the proposed constituency; and
(iv) if the proposed constituency relates to an open seat – the principle that the voters should comprise a good proportion of members of different ethnic communities.

(4) In this section:
communal seat means a seat to be filled in accordance with paragraph 51 (1)(a);
open seat means a seat to be filled in accordance with paragraph 51 (1)(b).

Delimitation of new electoral constituencies for the 1999 election

The CBC, charged with drawing up the boundaries for the 1999 election, was appointed for a term of 12 months. Different Ministries cooperated in this undertaking, as did the cartography section of the Ministry of Lands, the Public Service Commission, Government Printing and the Bureau of Statistics. The process involved a number of steps, including data collection, delimiting of constituencies and the evaluation of the boundaries before they were finalized.

Data collection involved obtaining the census population data and maps from the Bureau of Statistics. The Bureau provided the CBC with provisional results of the 1996 census covering the population aged 20 years and over. Maps, needed to identify physical features, administrative boundaries, urban boundaries and enumeration areas (EAs), and to ensure that contiguous geographic population entities were allocated to constituencies, were provided by the Ministry of Lands.

While collecting all the data needed for delimitation, the CBC invited the public (political parties, provincial councils etc), through the press and radio, in English, Fijian and Hindi, to make submissions on prospective constituency boundaries. The original period for submissions (31 January to 1 February) was extended to 16 February because no submissions were received during the initial period. Still, very few submissions were received by the new deadline. Residents of urban villages were also consulted about whether they wanted to be included alongside the urban Fijians or within the provincial communal constituencies.

Problems with the database

The data provided by the Bureau of Statistics were only the provisional data from the 1996 population census. Furthermore, at the time, no registration of voters had taken place. The Electoral Commission was waiting for the CBC to complete its work before commencing registration. Hence, there was no voter registration roll to use. Even when registration of voters began, not all eligible voters registered for the elections, despite the legal requirement for compulsory voting. In addition, the detailed local maps were in some instances dated or unavailable.

Delimitation

The Fijian urban, Indian and General communal constituencies

The CBC determined the boundaries of the six Fijian urban communal constituencies, the three General communal constituencies and the 19 Indian communal constituencies, as dictated by the constitutional requirement to 'ensure that the number of voters in each communal seat is, as far as reasonably practicable, the same'. Each ethnic communal constituency followed the principle that 'all voters should cast a vote of equal weight'. For example, an urban Fijian communal voter was supposed to cast a vote equal in weight to that of another urban Fijian communal voter and an Indian communal voter in any one constituency was supposed to cast a vote of equal weight to that of an Indian communal voter in any other constituency. The ideal average of voters in the six Fijian urban communal constituencies was 12,173; the Indian urban communal average was 9,621; while that for the three General communal constituencies was 6,036. All the Fijian urban communal constituencies were within the (+/-)10 per cent tolerance levels; all the General communal constituencies were within the (+/-) 15 per cent tolerance levels and all the Indian urban communal constituencies were within the (+/-) 20 per cent tolerance levels (Tables 22.1, 22.2 and 22.3). In these constituencies, the geographical size did not matter. However, the CBC tried to ensure that, as much as possible, the electoral boundaries coincided with communities of interest.

Table 22.1 Fijian Urban Communal constituencies, 1998

Number of people 21 years of age and over (provisional 1996 population census results) = 72,776
Number of constituencies = 6
Average number of people per constituency = 12,129
Maximum and minimum number of electors per Fijian Urban Communal constituency

Tolerance level	10 per cent (1,213)	15 per cent (1,819)
Maximum number of voters	13,342	13,948
Minimum number of voters	10,196	10,310

Note: All 6 constituencies were within the 10 per cent tolerance level.

Table 22.2 General Communal constituencies, 1998

Number of people 21 years of age and over (provisional 1996 population census results) = 18,108
Number of constituencies = 3
Average number of people per constituency = 6,036
Maximum and minimum number of electors per General Communal constituency

Tolerance level	10 per cent (604)	15 per cent (905)
Maximum number of voters	6,640	6,941
Minimum number of voters	5,432	5,134

Note: Only 1 of 3 constituencies – North Eastern General Communal constituency – was outside the 10 per cent tolerance level; all were within the 15 per cent tolerance level.

Table 22.3 Indian Communal constituencies, 1998

Number of people 21 years and over (provisional 1996 population census results) = 182,799
Number of constituencies = 19
Average number of people per constituency = 9,621
Maximum and minimum number of electors per Indian Communal constituency

Tolerance level	10 per cent (962)	15 per cent (1,443)	20 per cent (1,924)
Maximum number of voters	10,583	11,064	11,545
Minimum number of voters	8,659	8,178	9,697

Note: 15 constituencies were within the 10 per cent tolerance level; 4 of 19 constituencies – Viti Levu East Maritime, Tavua, Labasa and Bua/Macuata West Indian Communal constituencies – were outside the 10 per cent tolerance level; only 1 of 19 constituencies – Bua/Macuata West – was outside the 20 per cent tolerance level.

The open constituencies

Section 52(3)(b), (c)(i-iv) of the Constitution (Amendment) Act 1997 stipulates that the CBC must ensure that the number of voters in each seat is, as far as is practicable, the same, and section 52 (3) (c) requires it to give due consideration in relation to each proposed constituency to:

i. the physical features of the proposed constituency
ii. the boundaries of existing administrative and recognized traditional areas
iii. the means of communication and travel within the proposed constituency and
iv. the principle that voters should comprise a good proportion of members of different ethnic groups.

Delimitation of the open constituencies was quite a difficult undertaking because the constitution required them to have parity of numbers as well as a good proportion of different ethnic groups. In the real world, of course, people do not settle in a place for the purpose of fulfilling the requirements for drawing up the ideal constituency. Ethnic Indians tend to concentrate in western Viti Levu, northern Vanua Levu and urban areas. The outer islands, the interior of the two main islands and the urban areas are largely populated by ethnic Fijians. The CBC considered dividing the two main islands into strips or into oblong-shaped constituencies, but was restricted by other considerations as stipulated in the constitution, such as respect for administrative boundaries, geographic criteria and community of interest. Electorates were also to be contiguous geographic areas.

The CBC attempted to have parity of numbers of voters in every open seat so that all voters would cast a vote of equal weight. This resulted in the number of voters in all but one constituency falling within the 10 per cent tolerance level (Table 22.4).

Delimitation of the open constituencies resulted in ten of them being dominated by Fijians and ten by Indians. The remaining five had close to parity of numbers in the two major ethnic groups. The current situation of dominance of most open seats by a particular ethnic group will not change, because of the demographic situation. However, many commentators, including political parties, want the number of open constituencies to be increased to 45, as recommended by the Reeves Commission.

Table 22.4 Open constituencies, 1998

Number of people 21 years of age and over (provisional 1996 population census results) = 403,625		
Number of constituencies = 25		
Average number of people per constituency = 16,145		
Maximum and minimum number of electors per Open constituency		
Tolerance level	10 per cent (1,615)	15 per cent (2,422)
Maximum number of voters	17,760	18,567
Minimum number of voters	14,530	13,723

Note: Only 1 of 25 constituencies – Cakaudrove West Open constituency – was outside the 10 per cent tolerance level.

After the electoral boundaries were delimited, the public was again invited to make submissions to the CBC regarding the proposed boundaries. Many comments suggested minor additions to or contractions of the constituencies. These were considered before the final determination of Fiji's electoral boundaries. There were no objections. Many political parties, including the Soqosoqo ni Vakatulewa ni Taukei (SVT) and the National Federation Party (NFP), major parties at the time, were very happy with the proposed boundaries.

However, some academics were critical of the determination of the electoral boundaries.[2] They wanted more of the ethnically mixed open constituencies. They had hailed the adoption of the AV system in Fiji, believing it to be the most appropriate system. They and the architects of the constitution believed that the AV system would promote cooperation across ethnic lines. They were particularly critical of the large number of open constituencies created by the CBC determination of the electoral boundaries that did not have a good proportion of different ethnic groups. The effective operation of AV as a tool for promoting ethnic accommodation depended on these constituencies having near parity of numbers in relation to the two major ethnic groups in Fiji.

The past three elections have shown that even the ethnically mixed open constituencies did not bring about cross-ethnic vote trading or genuine inter-ethnic cooperation. Coalitions were created purely for electoral advantage, rather than on the basis of genuine shared goals and values. Most parties tried to win

seats on the first count. Moderates, who the electoral engineers assumed were going to be successful, were obliterated. The AV system had the opposite to its anticipated effect – it resulted in limited representation of some of the moderate parties and increased ethnic polarization. If moderation and inter-ethnic cooperation are to be achieved, we need to rethink our electoral system.

The case for redistribution in 2006

Redistribution is the process of altering electoral boundaries to accommodate changes and movements in population. In 2005, the Bureau of Statistics acknowledged that there had been much internal movement of people in Fiji since the previous census in 1996, but admitted that there was no way of obtaining accurate and detailed data on current population distribution because there had been no more recent census. Redistribution can be controversial, especially in Open constituencies with near parity of different ethnic populations, because those who are included in or excluded from an electoral constituency can determine the election outcome. In other words, there is the potential for gerrymandering. Redistribution is important to political parties because it can affect their support base.

The decision to change the boundaries must be taken well before a general election to ensure transparency, particularly when there has been considerable internal movement of population. A number of politicians called for the review and change in boundaries for the 2006 election.[3] The members of the CBC were appointed in early 2005, a year before the general election, to review the electoral boundaries and to determine whether or not to alter them.[4]

The electoral boundaries: to alter or not to alter

Database

The 1996 census figures were the only official figures available to the CBC in 2005, so the CBC could not ascertain the shifts in Fiji's population since 1996. They therefore commissioned the Bureau of Statistics to undertake a survey of urban and peri-urban constituencies to assess populations. The Bureau surveyed 13 Open constituencies to compare the data with the 1996 census data. The survey started in April 2005 and took seven months to complete. The CBC

was able to establish that there had been population growth in a number of constituencies and declines in others. The constituencies that had significant gains were Nadi Open, Cunningham Open, Nausori/Naitasiri Open and Nasinu/Rewa Open, while losses were recorded in Labasa Open, Suva City Open and Vuda Open. Survey results also established that the ethnic proportions remained stable despite the changes in total population of the constituencies.

The survey was, however, a futile exercise, because the CBC could not get data for the areas not surveyed in order to make meaningful 'redistricting' possible. They were, however, satisfied with the unchanging ethnic distribution within the constituencies surveyed and, as a result, made no attempt to increase the number of heterogeneous open constituencies.

As mentioned earlier, the CBC sought public comment on the proposed boundaries in January and February 2006. Almost all groups that made submissions wanted to maintain the current boundaries because current population data were not available to review. In addition, the Electoral Commission was using the 1998 electoral boundaries in its voter registration program and it would have been a mammoth task to reallocate people within new boundaries, especially in the time available. As a result, the CBC determined that there should be no change to the existing constituency boundaries for the 2006 election.

Table 22.5 Fijian Urban Communal constituencies, 2006

Number of people 21 years of age and over (Number of registered voters – Elections Office) = 95,582
Number of constituencies = 6
Average number of people per constituency = 15,930
Maximum and minimum number of electors per Fijian Communal constituency

Tolerance level	10 per cent (1,593)	15 per cent (2,390)
Maximum number of voters	17,523	18,320
Minimum number of voters	14,330	13,540

Note: 4 of 6 constituencies were within the 10 per cent tolerance level; 5 of 6 constituencies were within the 15 per cent tolerance level; 1 constituency – Suva City Fiji Urban Communal – was outside the 20 per cent tolerance level.

Malapportionment

Malapportionment refers to the discrepancy between the shares of parliamentary seats and the shares of population by constituencies. It applies when a set of boundaries in each of the ethnic reserved seats (Fijian Urban Communal constituencies, the General Communal, and the Indian Communal) and in the Open constituencies have unequal numbers of voters. In other words, malapportionment refers to uneven distribution within each type of constituency, not to that constitutionally entrenched inequality in the value of votes between the different types of constituency. Malapportionment violates the principle that all voters should cast a vote of equal weight and can occur if constituencies are not redrawn to accommodate population movements. Malapportionment was seen in the 2006 election in the Indian Communal constituencies and the Open constituencies, where a number of constituencies lie outside the 20 per cent tolerance level (Tables 22.5, 22.6, 22.7 and 22.8).

The future

If elections in Fiji are to be egalitarian, there is a need to redraw the electoral boundaries to reflect population shift in the past decade. Redistribution must be undertaken two or three years before an election to ensure transparency. The constitution stipulates that redistribution must be done after each census. However, there are other factors that are important in redistribution, such as the proportion of constituencies that experience significant change in population proportions, and whether or not there are marked departures from any proposed and accepted prescribed levels.

Redistribution in future will depend on Fiji's changing population composition. Bureau of Statistics' projections for 2006 show Fijians as making up 54.7 per cent of the population, ethnic Indians 38.1 per cent and others 7.2 per cent. In addition, Bakker's (forthcoming)[5] analysis of Fijian and Indian fertility shows that Fijian fertility decline is slow compared with that of Indians. The Indian fertility decline is resulting in a below replacement level of fertility. The impact of this will be reflected in the ethnic distribution of the population in future, and of course on the delimitation of electoral boundaries.

Table 22.6 General Communal constituencies, 2006

Number of people 21 years of age and over (Number of registered voters – Elections Office) = 13,820
Number of constituencies = 3
Average number of people per constituency = 4,607
Maximum and minimum number of electors per General Communal constituency

Tolerance level	10 per cent (461)	15 per cent (691)
Maximum number of voters	5,068	5,298
Minimum number of voters	4,146	3,916

Note: 1of 3 constituencies was within the 10 per cent tolerance level; 1 constituency – Western/Central General Communal – was outside the 15 per cent tolerance level.

Table 22.7 Indian Communal constituencies, 2006

Number of people 21 years of age and over (Number of registered voters – Elections Office) = 204,477
Number of constituencies = 19
Average number of people per constituency = 10,762
Maximum and minimum number of electors per Indian Communal constituency

Tolerance level	10 per cent (1,076)	15 per cent (1,614)	20 per cent (2,152)
Maximum number of voters	11,838	12,376	12,914
Minimum number of voters	9,686	9,148	8,610

Note: 7 of 19 constituencies were within the 10 per cent tolerance level; 8 constituencies were within the 15 per cent tolerance level; 9 constituencies were within the 20 per cent tolerance level; 10 Indian communal constituencies – Viti Levu East Maritime, Tavua, Ba East, Nadi Urban, Viti Levu South/ Kadavu, Vanua Levu West, Laucala, Nasinu, Labasa Rural and Macuta East/Cakaudrove – were outside the 20 per cent tolerance level.

Table 22.8 Open constituencies, 2006

Number of people 21 years of age and over (Number of registered voters – Elections Office) = 479,693
Number of constituencies = 25
Average number of people per constituency = 19,188
Maximum and minimum number of electors per Open constituency

Tolerance level	10 per cent (1,919)	15 per cent (2,878)	20 per cent (3,837)
Maximum number of voters	21,106	22,065	23,024
Minimum number of voters	17,268	16,309	15,350

Note: 15 of 25 constituencies were within the 10 per cent tolerance level; another 4 constituencies were within the 15 per cent tolerance level; another 3 – were within the 20 per cent tolerance level; three constituencies – Cunningham Open, Nadi Open and Suva City Open – were outside the 20 per cent tolerance level.

Notes

1 Constitution of the Republic of the Fiji Islands 1998, S52(3)

2 Reilly, B. 2001. 'Evaluating the effect of the electoral system in post-coup Fiji', Pacific Economic Bulletin, 16(1):142–49.

3 According to Section 53 of the 1997 constitution:
(1) The Constituency Boundaries Commission must, in the year following each official census, and may, at other times, review the boundaries of constituencies and determine whether or not the boundaries should, be changed to give effect to the requirements or subsections 52 (2) and (3).
(2) The Parliament may make laws relating to reviews conducted by the Commission under subsection (1), including law requiring the Commission to give notice of proposed redistributions and to hear objections before making a determination.
(3) Upon the making of a determination on a redistribution, the Commission must report its findings to the House of Representatives, together with; (a) a summary of any objections made to it; and (b) the reasons for its determination.
(4) Subject to the jurisdiction of a court to entertain an application for judicial review, a determination of the Commission is final.

4 *The Fiji Times* 24/4/06.<http://www.fijitimes.com/fijielections/no-change-in-boundaries.aspx>.

5 Bakker, M. 2006. 'Recommendations to the Government Statistician (and Census Commissioner) concerning the inclusion of retrospective questions on the 2007 Census Questionnaire'.