

SENATOR BENIGNO SIMEON C. AQUINO III AND MAYOR JESSE ROBREDO, PETITIONERS, VS. COMMISSION ON ELECTIONS REPRESENTED BY ITS CHAIRMAN JOSE A.R. MELO AND ITS COMMISSIONERS, RENE V. ...*G.R. No. 189793. April 07, 2010*

Ponente: PEREZ, J.

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This case comes before this Court by way of a Petition for Certiorari and Prohibition under Rule 65 of the Rules of Court. In this original action, petitioners Senator Benigno Simeon C. Aquino III and Mayor Jesse Robredo, as public officers, taxpayers and citizens, seek the nullification as unconstitutional of Republic Act No. 9716, entitled "An Act Reapportioning the Composition of the First (1st) and Second (2nd) Legislative Districts in the Province of Camarines Sur and Thereby Creating a New Legislative District From Such Reapportionment." Petitioners consequently pray that the respondent Commission on Elections be restrained from making any issuances and from taking any steps relative to the implementation of Republic Act No. 9716.

Republic Act No. 9716 originated from House Bill No. 4264, and was signed into law by President Gloria Macapagal Arroyo on 12 October 2009. It took effect on 31 October 2009, or fifteen (15) days following its publication in the Manila Standard, a newspaper of general circulation.[1] In substance, the said law created an additional legislative district for the Province of Camarines Sur by reconfiguring the existing first and second legislative districts of the province.

Prior to Republic Act No. 9716, the Province of Camarines Sur was estimated to have a population of 1,693,821,[2] distributed among four (4) legislative districts in this wise:

District

Municipalities/Cities

Population

1st District

Del Gallego

Ragay Lupi

Sipocot

Cabusao Libmanan

Minalabac

Pamplona

Pasacao

San Fernando

417,304

2[nd] District

Gainza

Milaor

Naga

Pili

Ocampo Canaman

Camaligan

Magarao

Bombon

Calabanga

474,899

3[rd] District

Caramoan

Garchitorena

Goa

Lagonoy

Presentacion Sangay

San Jose

Tigaon

Tinamba

Siruma

372,548

4[th] District

Iriga

Baao

Balatan

Bato Buhi

Bula

Nabua

429,070

Following the enactment of Republic Act No. 9716, the first and second districts of Camarines Sur were reconfigured in order to create an additional legislative district for the province. Hence, the first district municipalities of Libmanan, Minalabac, Pamplona, Pasacao, and San Fernando were combined with the second district municipalities of Milaor and Gainza to form a new second legislative district. The following table[3] illustrates the reapportionment made by Republic Act No. 9716:

District Municipalities/Cities Population

1[st] District

Del Gallego

Ragay

Lupi

Sipocot

Cabusao

176,383

2nd District

Libmanan

Minalabac

Pamplona

Pasacao San Fernando

Gainza

Milaor

276,777

3rd District (formerly

2nd District)

Naga

Pili

Ocampo

Canaman Camaligan

Magarao

Bombon

Calabanga

439,043

4th District (formerly

3rd District)

Caramoan

Garchitorena

Goa

Lagonoy

Presentacion Sangay

San Jose

Tigaon

Tinamba

Siruma

372,548

5th District (formerly

4th District)

Iriga

Baao

Balatan

Bato Buhi

Bula

Nabua

429,070

Republic Act No. 9716 is a well-milled legislation. The factual recitals by both parties of the origins of the bill that became the law show that, from the filing of House Bill No. 4264 until its approval by the Senate on a vote of thirteen (13) in favor and two (2) against, the process progressed step by step, marked by public hearings on the sentiments and position of the local officials of Camarines Sur on the creation of a new congressional district, as well as argumentation and debate on the issue, now before us, concerning the stand of the oppositors of the bill that a population of at least 250,000 is required by the Constitution for such new district.[4]

Petitioner Aquino III was one of two senators who voted against the approval of the Bill by the Senate. His co-petitioner, Robredo, is the Mayor of Naga City, which was a part of the former second district from which the municipalities of Gainza and Milaor were taken for inclusion in the new second district. No other local executive joined the two; neither did the representatives of the former third and fourth districts of the province.

Petitioners contend that the reapportionment introduced by Republic Act No. 9716, runs afoul of the explicit constitutional standard that requires a minimum population of two hundred fifty thousand (250,000) for the creation of a legislative district.[5] The petitioners claim that the reconfiguration by Republic Act No. 9716 of the first and second districts of Camarines Sur is unconstitutional, because the proposed first district will end up with a population of less than 250,000 or only 176,383.

Petitioners rely on Section 5(3), Article VI of the 1987 Constitution as basis for the cited 250,000 minimum population standard.[6] The provision reads:

Article VI

Section 5. (1) x x x x

(2) x x x x

(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

(4) x x x x (Emphasis supplied).

The petitioners posit that the 250,000 figure appearing in the above-cited provision is the minimum population requirement for the creation of a legislative district.[7] The petitioners theorize that, save in the case of a newly created province, each legislative district created by Congress must be supported by a minimum population of at least 250,000 in order to be valid.[8] Under this view, existing legislative districts may be reapportioned and severed to form new districts, provided each resulting district will represent a population of at least 250,000. On the other hand, if the reapportionment would result in the creation of a legislative seat representing a populace of less than 250,000 inhabitants, the reapportionment must be stricken down as invalid for non-compliance with the minimum population requirement.

In support of their theory, the petitioners point to what they claim is the intent of the framers of the 1987 Constitution to adopt a population minimum of 250,000 in the creation of additional legislative seats.[9] The petitioners argue that when the Constitutional Commission fixed the original number of district seats in the House of Representatives to two hundred (200), they took into account the projected national population of fifty five

million (55,000,000) for the year 1986.[10] According to the petitioners, 55 million people represented by 200 district representatives translates to roughly 250,000 people for every one (1) representative.[11] Thus, the 250,000 population requirement found in Section 5(3), Article VI of the 1987 Constitution is actually based on the population constant used by the Constitutional Commission in distributing the initial 200 legislative seats.

Thus did the petitioners claim that in reapportioning legislative districts independently from the creation of a province, Congress is bound to observe a 250,000 population threshold, in the same manner that the Constitutional Commission did in the original apportionment.

Verbatim, the submission is that:

- Republic Act 9716 is unconstitutional because the newly apportioned first district of Camarines Sur failed to meet the population requirement for the creation of the legislative district as explicitly provided in Article VI, Section 5, Paragraphs (1) and (3) of the Constitution and Section 3 of the Ordinance appended thereto; and
- Republic Act 9716 violates the principle of proportional representation as provided in Article VI, Section 5 paragraphs (1), (3) and (4) of the Constitution.[12]

The provision subject of this case states:

Article VI

Section 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional and sectoral parties or organizations.

(2) x x x x

(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

(4) Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section.

On the other hand, the respondents, through the Office of the Solicitor General, seek the dismissal of the present petition based on procedural and substantive grounds.

On procedural matters, the respondents argue that the petitioners are guilty of two (2) fatal technical defects: first, petitioners committed an error in choosing to assail the constitutionality of Republic Act No. 9716 via the remedy of Certiorari and Prohibition under Rule 65 of the Rules of Court; and second, the petitioners have no locus standi to question the constitutionality of Republic Act No. 9716.

On substantive matters, the respondents call attention to an apparent distinction between cities and provinces drawn by Section 5(3), Article VI of the 1987 Constitution. The respondents concede the existence of a 250,000 population condition, but argue that a plain and simple reading of the questioned provision will show that the same has no application with respect to the creation of legislative districts in provinces.[13] Rather, the 250,000 minimum population is only a requirement for the creation of a legislative district in a city.

In sum, the respondents deny the existence of a fixed population requirement for the reapportionment of districts in provinces. Therefore, Republic Act No. 9716, which only creates an additional legislative district within the province of Camarines Sur, should be sustained as a perfectly valid reapportionment law.

We first pass upon the threshold issues.

The respondents assert that by choosing to avail themselves of the remedies of Certiorari and Prohibition, the petitioners have committed a fatal procedural lapse. The respondents cite the following reasons:

- The instant petition is bereft of any allegation that the respondents had acted without or in excess of jurisdiction, or with grave abuse of discretion.
- The remedy of Certiorari and Prohibition must be directed against a tribunal, board, officer or person, whether exercising judicial, quasi-judicial, or ministerial functions. Respondents maintain that in implementing Republic Act No. 9716, they were not acting as a judicial or quasi-judicial body, nor were they engaging in the performance of a ministerial act.
- The petitioners could have availed themselves of another plain, speedy and adequate remedy in the ordinary course of law. Considering that the main thrust of the instant petition is the declaration of unconstitutionality of Republic Act No. 9716, the same could have been ventilated through a petition for declaratory relief, over which the Supreme Court has only appellate, not original jurisdiction.

The respondents likewise allege that the petitioners had failed to show that they had sustained, or is in danger of sustaining any substantial injury as a result of the implementation of Republic Act No. 9716. The respondents, therefore, conclude that the petitioners lack the required legal standing to question the constitutionality of Republic Act No. 9716.

This Court has paved the way away from procedural debates when confronted with issues that, by reason of constitutional importance, need a direct focus of the arguments on their content and substance.

The Supreme Court has, on more than one occasion, tempered the application of procedural rules,[14] as well as relaxed the requirement of locus standi whenever confronted with an important issue of overreaching significance to society.[15]

Hence, in *Del Mar v. Philippine Amusement and Gaming Corporation (PAGCOR)*[16] and *Jaworski v. PAGCOR*,[17] this Court sanctioned momentary deviation from the principle of the hierarchy of courts, and took original cognizance of cases raising issues of paramount public importance. The *Jaworski* case ratiocinates:

Granting arguendo that the present action cannot be properly treated as a petition for prohibition, the transcendental importance of the issues involved in this case warrants that we set aside the technical defects and take primary jurisdiction over the petition at bar. One cannot deny that the issues raised herein have potentially pervasive influence on the social and moral well being of this nation, specially the youth; hence, their proper and just determination is an imperative need. This is in accordance with the well-entrenched principle that rules of procedure are not inflexible tools designed to hinder or delay, but to facilitate and promote the administration of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate, rather than promote substantial justice, must always be eschewed. (Emphasis supplied)

Anent the locus standi requirement, this Court has already uniformly ruled in *Kilosbayan v. Guingona*,[18] *Tatad v. Executive Secretary*,[19] *Chavez v. Public Estates Authority*[20] and *Bagong Alyansang Makabayan v. Zamora*,[21] just to name a few, that absence of direct injury on the part of the party seeking judicial review may be excused when the latter is able to craft an issue of transcendental importance. In *Lim v. Executive Secretary*,[22] this Court held that in cases of transcendental importance, the cases must be settled promptly and definitely, and so, the standing requirements may be relaxed. This liberal stance has been echoed in the more recent decision on *Chavez v. Gonzales*. [23]

Given the weight of the issue raised in the instant petition, the foregoing principles must apply. The beaten path

must be taken. We go directly to the determination of whether or not a population of 250,000 is an indispensable constitutional requirement for the creation of a new legislative district in a province.

We deny the petition.

We start with the basics. Any law duly enacted by Congress carries with it the presumption of constitutionality.[24] Before a law may be declared unconstitutional by this Court, there must be a clear showing that a specific provision of the fundamental law has been violated or transgressed. When there is neither a violation of a specific provision of the Constitution nor any proof showing that there is such a violation, the presumption of constitutionality will prevail and the law must be upheld. To doubt is to sustain.[25]

There is no specific provision in the Constitution that fixes a 250,000 minimum population that must compose a legislative district.

As already mentioned, the petitioners rely on the second sentence of Section 5(3), Article VI of the 1987 Constitution, coupled with what they perceive to be the intent of the framers of the Constitution to adopt a minimum population of 250,000 for each legislative district.

The second sentence of Section 5(3), Article VI of the Constitution, succinctly provides: "Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative."

The provision draws a plain and clear distinction between the entitlement of a city to a district on one hand, and the entitlement of a province to a district on the other. For while a province is entitled to at least a representative, with nothing mentioned about population, a city must first meet a population minimum of 250,000 in order to be similarly entitled.

The use by the subject provision of a comma to separate the phrase "each city with a population of at least two hundred fifty thousand" from the phrase "or each province" point to no other conclusion than that the 250,000 minimum population is only required for a city, but not for a province. [26]

Plainly read, Section 5(3) of the Constitution requires a 250,000 minimum population only for a city to be entitled to a representative, but not so for a province.

The 250,000 minimum population requirement for legislative districts in cities was, in turn, the subject of interpretation by this Court in *Mariano, Jr. v. COMELEC*. [27]

In *Mariano*, the issue presented was the constitutionality of Republic Act No. 7854, which was the law that converted the Municipality of Makati into a Highly Urbanized City. As it happened, Republic Act No. 7854 created an additional legislative district for Makati, which at that time was a lone district. The petitioners in that case argued that the creation of an additional district would violate Section 5(3), Article VI of the Constitution, because the resulting districts would be supported by a population of less than 250,000, considering that Makati had a total population of only 450,000. The Supreme Court sustained the constitutionality of the law and the validity of the newly created district, explaining the operation of the Constitutional phrase "each city with a population of at least two hundred fifty thousand," to wit:

Petitioners cannot insist that the addition of another legislative district in Makati is not in accord with section 5(3), Article VI of the Constitution for as of the latest survey (1990 census), the population of Makati stands at only four hundred fifty thousand (450,000). Said section provides, inter alia, that a city with a population of at least two hundred fifty thousand (250,000) shall have at least one representative. Even granting that the population of Makati as of the 1990 census stood at four hundred fifty thousand (450,000), its legislative district may still be increased since it has met the minimum population requirement of two hundred fifty thousand (250,000). In fact, Section 3 of the Ordinance appended to the Constitution provides that a city whose

population has increased to more than two hundred fifty thousand (250,000) shall be entitled to at least one congressional representative.[28] (Emphasis supplied)

The Mariano case limited the application of the 250,000 minimum population requirement for cities only to its initial legislative district. In other words, while Section 5(3), Article VI of the Constitution requires a city to have a minimum population of 250,000 to be entitled to a representative, it does not have to increase its population by another 250,000 to be entitled to an additional district.

There is no reason why the Mariano case, which involves the creation of an additional district within a city, should not be applied to additional districts in provinces. Indeed, if an additional legislative district created within a city is not required to represent a population of at least 250,000 in order to be valid, neither should such be needed for an additional district in a province, considering moreover that a province is entitled to an initial seat by the mere fact of its creation and regardless of its population.

Apropos for discussion is the provision of the Local Government Code on the creation of a province which, by virtue of and upon creation, is entitled to at least a legislative district. Thus, Section 461 of the Local Government Code states:

Requisites for Creation. - (a) A province may be created if it has an average annual income, as certified by the Department of Finance, of not less than Twenty million pesos (P20,000,000.00) based on 1991 constant prices and either of the following requisites:

(i) a contiguous territory of at least two thousand (2,000) square kilometers, as certified by the Lands Management Bureau; or

(ii) a population of not less than two hundred fifty thousand (250,000) inhabitants as certified by the National Statistics Office.

Notably, the requirement of population is not an indispensable requirement, but is merely an alternative addition to the indispensable income requirement.

Mariano, it would turn out, is but a reflection of the pertinent ideas that ran through the deliberations on the words and meaning of Section 5 of Article VI.

The whats, whys, and wherefores of the population requirement of "at least two hundred fifty thousand" may be gleaned from the records of the Constitutional Commission which, upon framing the provisions of Section 5 of Article VI, proceeded to form an ordinance that would be appended to the final document. The Ordinance is captioned "APPORTIONING THE SEATS OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE PHILIPPINES TO THE DIFFERENT LEGISLATIVE DISTRICTS IN PROVINCES AND CITIES AND THE METROPOLITAN MANILA AREA." Such records would show that the 250,000 population benchmark was used for the 1986 nationwide apportionment of legislative districts among provinces, cities and Metropolitan Manila. Simply put, the population figure was used to determine how many districts a province, city, or Metropolitan Manila should have. Simply discernible too is the fact that, for the purpose, population had to be the determinant. Even then, the requirement of 250,000 inhabitants was not taken as an absolute minimum for one legislative district. And, closer to the point herein at issue, in the determination of the precise district within the province to which, through the use of the population benchmark, so many districts have been apportioned, population as a factor was not the sole, though it was among, several determinants.

From its journal,[29] we can see that the Constitutional Commission originally divided the entire country into two hundred (200) districts, which corresponded to the original number of district representatives. The 200 seats were distributed by the Constitutional Commission in this manner: first, one (1) seat each was given to the

seventy-three (73) provinces and the ten (10) cities with a population of at least 250,000;[30] second, the remaining seats were then redistributed among the provinces, cities and the Metropolitan Area "in accordance with the number of their inhabitants on the basis of a uniform and progressive ratio." [31] Commissioner Davide, who later became a Member and then Chief Justice of the Court, explained this in his sponsorship remark [32] for the Ordinance to be appended to the 1987 Constitution:

Commissioner Davide: The ordinance fixes at 200 the number of legislative seats which are, in turn, apportioned among provinces and cities with a population of at least 250, 000 and the Metropolitan Area in accordance with the number of their respective inhabitants on the basis of a uniform and progressive ratio. The population is based on the 1986 projection, with the 1980 official enumeration as the point of reckoning. This projection indicates that our population is more or less 56 million. Taking into account the mandate that each city with at least 250, 000 inhabitants and each province shall have at least one representative, we first allotted one seat for each of the 73 provinces, and each one for all cities with a population of at least 250, 000, which are the Cities of Manila, Quezon, Pasay, Caloocan, Cebu, Iloilo, Bacolod, Cagayan de Oro, Davao and Zamboanga. Thereafter, we then proceed[ed] to increase whenever appropriate the number of seats for the provinces and cities in accordance with the number of their inhabitants on the basis of a uniform and progressive ratio. (Emphasis supplied).

Thus was the number of seats computed for each province and city. Differentiated from this, the determination of the districts within the province had to consider "all protests and complaints formally received" which, the records show, dealt with determinants other than population as already mentioned.

Palawan is a case in point. Journal No. 107 of the Constitutional Commission narrates:

INTERPELLATION OF MR. NOLLEDO:

Mr. Nollado inquired on the reason for including Puerto Princesa in the northern towns when it was more affinity with the southern town of Aborlan, Batarasa, Brooke's Point, Narra, Quezon and Marcos. He stated that the First District has a greater area than the Second District. He then queried whether population was the only factor considered by the Committee in redistricting.

Replying thereto, Mr. Davide explained that the Committee took into account the standards set in Section 5 of the Article on the Legislative Department, namely: 1) the legislative seats should be apportioned among the provinces and cities and the Metropolitan Manila area in accordance with their inhabitants on the basis of a uniform and progressive ratio; and 2) the legislative district must be compact, adjacent and contiguous.

Mr. Nollado pointed out that the last factor was not met when Puerto Princesa was included with the northern towns. He then inquired what is the distance between Puerto Princesa from San Vicente.

x x x x

Thereupon, Mr. Nollado stated that Puerto Princesa has a population of 75,480 and based on the apportionment, its inclusion with the northern towns would result in a combined population of 265,000 as against only 186,000 for the south. He added that Cuyo and Coron are very important towns in the northern part of Palawan and, in fact, Cuyo was the capital of Palawan before its transfer to Puerto Princesa. He also pointed out that there are more potential candidates in the north and therefore if Puerto Princesa City and the towns of Cuyo and Coron are lumped together, there would be less candidates in the south, most of whose inhabitants are not interested in politics. He then suggested that Puerto Princesa be included in the south or the Second District.

Mr. Davide stated that the proposal would be considered during the period of amendments. He requested that the COMELEC staff study said proposal.[33]

"PROPOSED AMENDMENT OF MR. NOLLEDO

On the districting of Palawan, Mr. Nollado pointed out that it was explained in the interpellations that District I has a total population of 265,358 including the City of Puerto Princesa, while the Second District has a total population of 186,733. He proposed, however, that Puerto Princesa be included in the Second District in order to satisfy the contiguity requirement in the Constitution considering that said City is nearer the southern towns comprising the Second District.

In reply to Mr. Monsod's query, Mr. Nollado explained that with the proposed transfer of Puerto Princesa City to the Second District, the First District would only have a total population of 190,000 while the Second District would have 262,213, and there would be no substantial changes.

Mr. Davide accepted Mr. Nollado's proposal to insert Puerto Princesa City before the Municipality of Aborlan.

There being no objection on the part of the Members the same was approved by the Body.

APPROVAL OF THE APPORTIONMENT AND DISTRICTING OF PALAWAN

There being no other amendment, on motion of Mr. Davide, there being no objection, the apportionment and districting for the province of Palawan was approved by the Body.[34]

The districting of Palawan disregarded the 250,000 population figure. It was decided by the importance of the towns and the city that eventually composed the districts.

Benguet and Baguio are another reference point. The Journal further narrates:

At this juncture, Mr. Davide informed the Body that Mr. Regalado made a reservation with the Committee for the possible reopening of the approval of Region I with respect to Benguet and Baguio City.

REMARKS OF MR. REGALADO

Mr. Regalado stated that in the formulation of the Committee, Baguio City and Tuba are placed in one district. He stated that he was toying with the idea that, perhaps as a special consideration for Baguio because it is the summer capital of the Philippines, Tuba could be divorced from Baguio City so that it could, by itself, have its own constituency and Tuba could be transferred to the Second District together with Itogon. Mr. Davide, however, pointed out that the population of Baguio City is only 141,149.

Mr. Regalado admitted that the regular population of Baguio may be lower during certain times of the year, but the transient population would increase the population substantially and, therefore, for purposes of business and professional transactions, it is beyond question that population-wise, Baguio would more than qualify, not to speak of the official business matters, transactions and offices that are also there.

Mr. Davide adverted to Director de Lima's statement that unless Tuba and Baguio City are united, Tuba will be isolated from the rest of Benguet as the place can only be reached by passing through Baguio City. He stated that the Committee would submit the matter to the Body.

Upon inquiry of the Chair whether he is insisting on his amendment, Mr. Regalado stated that the Body should have a say on the matter and that the considerations he had given are not on the demographic aspects but on the fact that Baguio City is the summer capital, the venue and situs of many government offices and functions.

On motion of Mr. Davide, there being no objection, the Body approved the reconsideration of the earlier approval of the apportionment and districting of Region I, particularly Benguet.

Thereafter, on motion of Mr. Davide, there being no objection, the amendment of Mr. Regalado was put to a vote. With 14 Members voting in favor and none against, the amendment was approved by the Body.

Mr. Davide informed that in view of the approval of the amendment, Benguet with Baguio City will have two

seats. The First District shall comprise of the municipalities of Mankayan, Buguias, Bakun, Kabayan, Kibungan, Bokod, Atok, Kapangan, Tublay, La Trinidad, Sablan, Itogon and Tuba. The Second District shall comprise of Baguio City alone.

There being no objection, the Body approved the apportionment and districting of Region I.[35]

Quite emphatically, population was explicitly removed as a factor.

It may be additionally mentioned that the province of Cavite was divided into districts based on the distribution of its three cities, with each district having a city: one district "supposed to be a fishing area; another a vegetable and fruit area; and the third, a rice growing area," because such consideration "fosters common interests in line with the standard of compactness." [36] In the districting of Maguindanao, among the matters discussed were "political stability and common interest among the people in the area" and the possibility of "chaos and disunity" considering the "accepted regional, political, traditional and sectoral leaders." [37] For Laguna, it was mentioned that municipalities in the highland should not be grouped with the towns in the lowland. For Cebu, Commissioner Maambong proposed that they should "balance the area and population." [38]

Consistent with Mariano and with the framer deliberations on district apportionment, we stated in *Bagabuyo v. COMELEC* [39] that:

x x x Undeniably, these figures show a disparity in the population sizes of the districts. The Constitution, however, does not require mathematical exactitude or rigid equality as a standard in gauging equality of representation. x x x. To ensure quality representation through commonality of interests and ease of access by the representative to the constituents, all that the Constitution requires is that every legislative district should comprise, as far as practicable, contiguous, compact and adjacent territory. (Emphasis supplied).

This 2008 pronouncement is fresh reasoning against the uncompromising stand of petitioner that an additional provincial legislative district, which does not have at least a 250,000 population is not allowed by the Constitution.

The foregoing reading and review lead to a clear lesson.

Neither in the text nor in the essence of Section 5, Article VI of the Constitution can, the petition find support. And the formulation of the Ordinance in the implementation of the provision, nay, even the Ordinance itself, refutes the contention that a population of 250,000 is a constitutional sine qua non for the formation of an additional legislative district in a province, whose population growth has increased beyond the 1986 numbers.

Translated in the terms of the present case:

1. The Province of Camarines Sur, with an estimated population of 1,693,821 in 2007 is — based on the formula and constant number of 250,000 used by the Constitutional Commission in nationally apportioning legislative districts among provinces and cities — entitled to two (2) districts in addition to the four (4) that it was given in the 1986 apportionment. Significantly, petitioner Aquino concedes this point.[40] In other words, Section 5 of Article VI as clearly written allows and does not prohibit an additional district for the Province of Camarines Sur, such as that provided for in Republic Act No. 9786;
2. Based on the pith and pitch of the exchanges on the Ordinance on the protests and complaints against strict conformity with the population standard, and more importantly based on the final districting in the Ordinance on considerations other than population, the reapportionment or the recomposition of the first and second legislative districts in the Province of Camarines Sur that resulted in the creation of a new legislative district is valid even if the population of the new district is 176,383 and not 250,000 as insisted upon by the petitioners.

3. The factors mentioned during the deliberations on House Bill No. 4264, were:

- (a) the dialects spoken in the grouped municipalities;
- (b) the size of the original groupings compared to that of the regrouped municipalities;
- (c) the natural division separating the municipality subject of the discussion from the reconfigured District One; and
- (d) the balancing of the areas of the three districts resulting from the redistricting of Districts One and Two.[41]

Each of such factors and in relation to the others considered together, with the increased population of the erstwhile Districts One and Two, point to the utter absence of abuse of discretion, much less grave abuse of discretion,[42] that would warrant the invalidation of Republic Act No. 9716.

To be clear about our judgment, we do not say that in the reapportionment of the first and second legislative districts of Camarines Sur, the number of inhabitants in the resulting additional district should not be considered. Our ruling is that population is not the only factor but is just one of several other factors in the composition of the additional district. Such settlement is in accord with both the text of the Constitution and the spirit of the letter, so very clearly given form in the Constitutional debates on the exact issue presented by this petition.

WHEREFORE, the petition is hereby DISMISSED. Republic Act No. 9716 entitled "An Act Reapportioning the Composition of the First (1st) and Second (2nd) Legislative Districts in the Province of Camarines Sur and Thereby Creating a New Legislative District From Such Reapportionment" is a VALID LAW.

SO ORDERED.

Corona, Velasco, Jr., Nachura, Leonardo-De Castro, Peralta, Bersamin, Del Castillo, and Mendoza, JJ., concur.

Puno, C.J., join the dissenting opinion of J. Carpio.

Carpio, J., see dissenting opinion.

Carpio Morales, J., please see concurring and dissenting opinion.

Brion, J., join opinion of J. Morales

Abad, J., on official leave.

Villarama, Jr., J., join J. Morales' concurring and dissenting opinion.

[1] Republic Act No. 9716 was published in the 15 October 2009 issue of the Manila Standard.

[2] Figures based on the 2007 Census of Population conducted by the National Statistics Office.

[3] Figures based on the 2007 Census of Population conducted by the National Statistics Office.

[4] Rollo, p. 40.

[5] Id. at 12.

[6] Id. at 14-15.

[7] Id.

[8] Id.

[9] Id. at 16.

[10] Id.

[11] Id.

[12] Id. at 12-13.

[13] Id. at 96.

[14] *Del Mar v. Philippine Amusement and Gaming Corporation*, 400 Phil. 307 (2000); *Fortich v. Corona*, 352 Phil. 461 (1998).

[15] *Chavez v. Public Estates Authority*, 433 Phil. 506, 528 (2002); *Bagong Alyansang Makabayan v. Zamora*, 396 Phil. 623, 646 (2000); *Lim v. Executive Secretary*, 430 Phil. 555, 580 (2002).

[16] Id.

[17] 464 Phil. 375, 385 (2004).

[18] G.R. No. 113375, 5 May 1994, 232 SCRA 110.

[19] 346 Phil. 321 (1997).

[20] *Supra* note 15.

[21] Id.

[22] *Supra* note 15 at 580.

[23] G.R. No. 168338, 15 February 2008, 545 SCRA 441.

[24] *Alvarez v. Guingona*, 322 Phil. 774, 789 (1996).

[25] *The Philippine Judges Association v. Prado*, G.R. No. 105371, 11 November 1993, 227 SCRA 703, 705-706.

[26] *Records of the Constitutional Commission*, Vol. II, pp. 136-138.

[27] 312 Phil. 259 (1995).

[28] Id. at 272-273.

[29] *Journal of the Constitutional Commission*, Vol. III, pp. 1859-1881.

[30] *Record of the Constitutional Commission*, Vol. V, p. 949.

[31] Id.

[32] Id.

[33] *Journal of the Constitutional Commission*, Vol. III, p. 1861.

[34] Id. at 1867.

[35] Id. at 1872.

[36] Id. at 1867-1868.

[37] Id. at 1861.

[38] Id. at 1874.

[39] G.R. No. 176970, 8 December 2008, 573 SCRA 290, 309-310.

[40] Rollo, p. 4.

[41] Sen. Aquino, Mr. President, we have to respond to the last statement. The others that have been recommended together with the Camarines Sur bill were all tested based on one standard, not separate standards for everybody. It is our opinion and that is the source of this discussion and of this debate; that we hold that there is a 250,000-rule embodied in so many provisions of the Constitution. Our distinguished colleague from the Bicol and Makati areas does not agree. I think we have established that we do not agree on our interpretation of the Constitution.

With his permission, Mr. President, since I am against of his time, may we move on to the next point so as not to be accused of delaying the passage of the bill any further?

May we ask: Why was Libmanan not considered to be a portion of the proposed first district? Because having done the same, instead of having the 170,000-figure, we would have a 269,222 population figure.

Sen. Arroyo. All right. Look at that map.

Sen. Aquino. May we just move to another rostrum, Mr. President. We cannot view the details from this particular rostrum, with the indulgence of our distinguished colleague.

Sen. Arroyo. x x x.

x x x x.

Now, the first district of Camarines Sur is so big that it consists of 40% of the province, area-wise. Libmanan is the biggest municipality in the entire or present first district. It stuck in the middle. We cannot move that no matter what - because that is the biggest. Anyway, we move it left, we move it right, it would change the configuration. Those are the practical difficulties in trying to figure out how. That is the situation. As we see, there is a water extension of the gulf. We cannot connect them because they are separated by water. So it is no longer contiguous because it is separated by water and there is nothing we can do about it. That is what I was saying about mathematical formula. We cannot have mathematical formula when a natural boundary like water cannot make the municipalities contiguous. That is the picture. It is all there.

The violet is the tagalog-speaking province. The green is the Bicol-speaking province so that is the only way to divide it. So much has been done in the Lower House in trying to figure it out. But as long as the three Congressman do not agree, then there is nothing we can do about it. That Representative, what the Congressman say in his district is "king". He is the king there, there is nothing we can do about it. We respect that.

Libmanan is the biggest one. We cannot move that anyway. (TSN, Senate Plenary Debates on H.B. No. 4264, 22 September 2009).

[42] Grave abuse of discretion contemplates a situation where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility - so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by, or to act at all in contemplation of law. (Cabrera v. COMELEC, G.R. No. 182084, 6 October 2008, 567 SCRA 686, 691).

DISSENTING OPINION

CARPIO, J.:

I dissent. The majority opinion wreaks havoc on the bedrock principle of our "democratic and republican State"[1] that all votes are equal. Instead, the majority opinion introduces the Orwellian concept that some votes are more equal than others. The majority opinion allows, for the first time under the 1987 Constitution, voters in a legislative district created by Congress to send one representative to Congress even if the district has a population of only 176,383. In sharp contrast, all other legislative districts created by Congress send one representative each because they all meet the minimum population requirement of 250,000.

The assailed Republic Act No. 9716 (RA 9716) is unconstitutional for being utterly repugnant to the clear and precise "standards" prescribed in Section 5, Article VI of the 1987 Constitution for the creation of legislative districts. Section 5(4)[2] of Article VI mandates that "Congress shall make a reapportionment of legislative districts based on the standards" fixed in Section 5. These constitutional standards, as far as population is concerned, are: (1) proportional representation; (2) minimum population of 250,000 per legislative district; (3) progressive ratio in the increase of legislative districts as the population base increases; and (4) uniformity in apportionment of legislative districts "in provinces, cities, and the Metropolitan Manila area." The assailed RA 9716 grossly violates these constitutional standards.

Legislators Represent People, Not Provinces or Cities

There was never any debate[3] in the design of our government that the members of the House of Representatives, just like the members of the Senate, represent people - not provinces, cities, or any other political unit.[4] The only difference is that the members of the Senate represent the people at large while the members of the House represent the people in legislative districts. Thus, population - or the number of inhabitants in a district - is the essential measure of representation in the House of Representatives.[5] Section 5(1), Article VI of the 1987 Constitution, just like in the previous Constitutions,[6] could not be any clearer:

The House of Representatives shall be composed of x x x members, x x x, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio x x x. (Emphasis supplied)

Evidently, the idea of the people, as individuals, electing their representatives under the principle of "one person, one vote,"[7] is the cardinal feature of any polity, like ours, claiming to be a "democratic and republican State." [8] A democracy in its pure state is one where the majority of the people, under the principle of "one person, one vote," directly run the government.[9] A republic is one which has no monarch, royalty or nobility,[10] ruled by a representative government elected by the majority of the people under the principle of "one person, one vote," where all citizens are equally subject to the laws.[11] A republic is also known as a representative democracy. The democratic and republican ideals are intertwined, and converge on the common principle of equality -- equality in voting power, and equality under the law.

The constitutional standard of proportional representation is rooted in equality in voting power -- that each vote is worth the same as any other vote,

not more or less. Regardless of race, ethnicity, religion, sex, occupation, poverty, wealth or literacy, voters have an equal vote. Translated in terms of legislative redistricting, this means equal representation for equal numbers of people[12] or equal voting weight per legislative district. In constitutional parlance, this means representation for every legislative district "in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio" [13] or proportional representation. Thus, the principle of "one person, one vote" or equality in voting power is inherent in proportional representation.

It was in obedience to the rule on proportional representation that this Court unanimously struck down an apportionment law which:

(a) x x x gave Cebu seven members, while Rizal with a bigger number of inhabitants got four only; (b) x x x gave Manila four members, while Cotabato with a bigger population got three only; (c) [gave] Pangasinan with less inhabitants than both Manila and Cotabato x x x more than both, five members having been assigned to it; (d) [gave] Samar (with 871,857) four members while Davao with 903,224 got three only; (e) [gave] Bulacan with 557,691 x x x two only, while Albay with less inhabitants (515,691) got three, and (f) [gave] Misamis Oriental with 387,839 x x x one member only, while Cavite with less inhabitants (379,904) got two.[14] x x x x

for being repugnant to the constitutional edict under the 1935 Constitution that the Members of the House of Representatives "shall be apportioned among the several provinces as nearly as may be according to the number of their respective inhabitants." [15]

Section 5(1), Article VI of the 1987 Constitution is even more precise by providing that the Members of the House "shall be elected from legislative districts

apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio x x x." The phrase "as nearly as may be according to the number of their respective inhabitants" in the 1935 Constitution has been changed in the 1987 Constitution to the more precise "in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio x x x." The addition of the phrase "on the basis of a uniform and progressive ratio" was meant to stress that the rule on proportional representation shall apply uniformly in the apportionment of every legislative district.

The phrase "in accordance with the number of their respective inhabitants," which precedes the phrase "provinces, cities and the Metropolitan Manila area," means that legislative districts in provinces, cities and the Metropolitan Manila area shall be apportioned according to proportional representation or equal representation for equal numbers of people. Thus, there shall be one legislative district for every given number of people, whether inhabiting in provinces, cities or the Metropolitan Manila area.

The phrase "on the basis of a uniform x x x ratio" means that the ratio of one legislative district for every given number of people shall be applied uniformly in all apportionments, whether in provinces, cities or the Metropolitan Manila area. Section 5(3) of Article VI mandates that "[e]ach city with a population of at least two hundred fifty thousand x x x shall have at least one representative." Consequently, a population of 250,000 serves as the default minimum population applicable to every legislative district following the rule on uniformity in the apportionment of legislative districts, whether in provinces, cities or in the Metropolitan Manila area.

The phrase "progressive ratio" means that the number of legislative districts shall increase as the number of the population increases, whether in provinces, cities or the Metropolitan Manila area. Thus, a province shall have one

legislative district if it has a population of 250,000, and two legislative districts if it has 500,000. This insures that proportional representation is maintained if there are increases in the population of a province, city, or the Metropolitan Manila area. This is what is meant by a "progressive ratio" in the apportionment of legislative districts, a ratio that must also be uniformly applied.

Obviously, the 1987 Constitution has laid down clear and precise standards in the apportionment of legislative districts compared to the 1935 Constitution. What is inescapable is that the 1987 Constitution has strengthened and tightened the requirement of uniformity in the apportionment of legislative districts, whether in provinces,

cities or the Metropolitan Manila area.

To now declare, as the majority opinion holds, that apportionment in provinces can disregard the minimum population requirement because the Constitution speaks of a minimum population only in cities is logically flawed, constitutionally repulsive, and fatally corrosive of the bedrock notion that this country is a "democratic and republican State." [16] This ruling of the majority strikes a debilitating blow at the heart of our democratic and republican system of government.

Under the majority's ruling, Congress can create legislative districts in provinces without regard to any minimum population. Such legislative districts can have a population of 150,000, 100,000, 50,000 or even 100, thus throwing out of the window the constitutional standards of proportional representation and uniformity in the creation of legislative districts. To disregard the minimum population requirement of 250,000 in provincial legislative districts while

maintaining it in city legislative districts is to disregard, as a necessary consequence, the constitutional standards of proportional representation and uniformity in the creation of legislative districts in "provinces, cities, and the Metropolitan Manila area." This means that legislative districts in provinces can have a minimum population of anywhere from 100 (or even less) to 250,000, while legislative districts in cities will always have a minimum population of 250,000. This will spell the end of our democratic and republican system of government as we know it and as envisioned in the 1987 Constitution.

Constitutional Standards for Reapportionment:

Population and Territory

The Constitution itself provides the "standards" against which reapportionment laws like RA 9716 will be tested, following its command that "Congress shall make a reapportionment of legislative districts based on the standards provided in this section," [17] referring to Section 5, Article VI. These standards relate to first, population, and second, territory. Section 5 admits of no other standards.

On population, the standards of the 1987 Constitution have four elements. First is the rule on proportional representation, which is the universal standard in direct representation in legislatures. Second is the rule on a minimum population of 250,000 per legislative district, which was not present in our previous Constitutions. Third is the rule on progressive ratio, which means that the number of legislative districts shall increase as the number of the population increases in accordance with the rule on proportional representation. Fourth is the rule on uniformity, which requires that the first three rules shall apply uniformly in all apportionments in provinces, cities and the Metropolitan Manila area.

The Constitution [18] and the Ordinance [19] appended to the 1987 Constitution fixes the minimum population of a legislative district at 250,000. Although textually relating to cities, this minimum population requirement applies equally to legislative districts apportioned in provinces and the Metropolitan Manila area because of the constitutional command that "legislative districts [shall be] apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio." To reiterate, the Constitution commands that this rule on uniformity shall apply to legislative districts in "provinces, cities, and the Metropolitan Manila area." Otherwise, districts apportioned in provinces, if freed from the minimum population requirement, will have constituencies two, four, ten times lower than in districts apportioned in cities, violating the constitutional command that apportionment shall be based on a uniform ratio in "provinces, cities, and the Metropolitan Manila area."

In short, the constitutional "standards" in the apportionment of legislative districts under Section 5 of Article VI,

as far as population is concerned, are: (1) proportional representation; (2) a minimum "population of at least two hundred fifty thousand" per legislative district; (3) progressive ratio in the increase of legislative districts as the population base increases; and (4) uniformity in the apportionment of legislative districts in "provinces, cities, and the Metropolitan Manila area."

For territory, the Constitution prescribes the "standards" that a legislative district must be, "as far as practicable, contiguous, compact, and adjacent."

To repeat, other than population and territory, there are no other standards prescribed in Section 5 of Article VI. This Court cannot add other standards not found in Section 5.

The Malapportionment of RA 9716 Flouts the Constitutional Standards on Population

RA 9716 grossly malapportions Camarines Sur's proposed five legislative districts by flouting the standards of proportional representation among legislative districts and the minimum population per legislative district.

Based on the 2007 census, the proposed First District under RA 9716 will have a population of only 176,383, which is 29% below the constitutional minimum population of 250,000 per legislative district. In contrast, the remaining four proposed districts have populations way above the minimum with the highest at 439,043 (proposed Third District), lowest at 276,777 (proposed Second District) and an average of 379,359. Indeed, the disparity is so high that three of the proposed districts (Third, Fourth, and Fifth Districts) have populations more than double that of the proposed First District.[20] This results in wide variances among the districts' populations. Still using the 2007 census, the ideal per district population for Camarines Sur is 338,764.[21] The populations of the proposed districts swing from this ideal by a high of positive 29.6% (Third

District) to a low of negative 47.9% (First District).[22] This means that the smallest proposed district (First District) is underpopulated by nearly 50% of the ideal and the biggest proposed district (Third District) is overpopulated by nearly 30% of the ideal.

The resulting vote undervaluation (for voters in the disfavored districts) and vote overvaluation (for voters in the First District) fails even the most liberal application of the constitutional standards. Votes in the proposed First District are overvalued by more than 200% compared to votes from the Third, Fourth, and Fifth Districts and by more than 60% compared to votes in the Second District. Conversely, votes from the Third, Fourth, and Fifth Districts are undervalued by more than 200% compared to votes in the First District while those in the Second District suffer more than 60% undervaluation.

Proportional representation in redistricting does not mean exact numbers of population, to the last digit, for every legislative district. However, under the assailed RA 9716, the variances swing from negative 47.9% to positive 29.6%. Under any redistricting yardstick, such variances are grossly anomalous and destructive of the concept of proportional representation. In the United States, the Supreme Court there ruled that a variance of even less than 1% is unconstitutional in the absence of proof of a good faith effort to achieve a mathematically exact apportionment.[23]

Significantly, petitioner Senator Aquino's attempt to redraw districting lines to make all five proposed districts compliant with the minimum population requirement (and thus lessen the wide variances in population among the districts) was thwarted chiefly for political expediency: his colleagues in the Senate deemed the existing districts in Camarines Sur "untouchable" because "[a Congressman] is king [in his district]."[24] This shows a stark absence of a good faith effort to

achieve a more precise proportional representation in the redistricting under the assailed RA 9716. Clearly, RA 9716 tinkers with vote valuation, and consequently with the constitutional standard of proportional representation, based solely on the whims of incumbent Congressmen, an invalid standard for redistricting under Section 5 of Article VI.

Equally important, RA 9716 violates the minimum population requirement of 250,000 in creating the proposed First District, which will have a population of only 176,383. The minimum population of 250,000 per legislative district admits of no variance and must be complied with to the last digit. The Constitution mandates a population of "at least two hundred fifty thousand" for a legislative district in a city, and under the principle of "uniform and progressive ratio," for every legislative district in provinces and in the Metropolitan Manila area.

Entitlement of "Each Province" to "at Least One Representative"

No Basis to Ignore Standard of Uniform Population Ratio

The directive in Section 5(3) of Article VI that "each province, shall have at least one representative" means only that when a province is created, a legislative district must also be created with it.[25] Can this district have a population below 250,000? To answer in the affirmative is to ignore the constitutional mandate that districts in provinces be apportioned "in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio." That the Constitution never meant to exclude provinces from the requirement of proportional representation is evident in the opening provision of Section 5(1), which states:

The House of Representatives shall be composed of x x x members, x x x, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio x x x." (Boldfacing and underscoring supplied)

In short, the Constitution clearly mandates that the creation of legislative districts in provinces, cities and the Metropolitan Manila area must comply with proportional representation, on the basis of a uniform and progressive ratio.[26]

Apportionment in the Ordinance Appended to the 1987 Constitution

Distinct from Legislative Reapportionments

It will not do to hoist the apportionment under the Ordinance appended to the Constitution or *Mariano v. COMELEC*[27] and *Bagabuyo v. COMELEC*[28] as normative props to shore up the hollow proposition that reapportionment in provinces can dispense with the minimum population of 250,000 as prescribed in Section 5 of Article VI. In the first place, the Constitutional Commission, exercising constituent powers, enjoyed absolute discretion to relax the standards it textualized in Section 5, Article VI, in the interest of creating legislative districts en masse cognizant of legitimate concerns.[29] Only the people, through the instrument of ratification, possessed the greater sovereign power to overrule the Constitutional Commission. By overwhelmingly ratifying the 1987 Constitution, the people in the exercise of their sovereign power sanctioned the Constitutional Commission's discretionary judgments.

In contrast, Congress enacted RA 9716 in the exercise of its legislative powers under the 1987 Constitution and subject to the reapportionment standards in Section 5, Article VI of the Constitution. Congress is strictly bound by the reapportionment standards in Section 5, unlike the Constitutional Commission which could create one-time exceptions subject to ratification by the sovereign people. Until it enacted RA 9716, Congress never deviated from the minimum population requirement of 250,000 in creating a legislative district. Thus, in Republic Act No. 7854 (RA 7854) which doubled the legislative districts in Makati City, the Court in *Mariano v. COMELEC* took note of the certification by the National Statistics Office that at the time of the enactment of RA 7854, the population of Makati City was 508,174, entitling it to two representatives.[30]

Footnote 13 in *Mariano v. COMELEC* states: "As per the certificate issued by Administrator Tomas Africa of the National Census and Statistics Office, the population of Makati as of 1994 stood at 508,174; August 4, 1994, Senate Deliberations on House Bill No. 12240 (converting Makati into a highly urbanized city) x x x."

Similarly, in Republic Act No. 9371 (RA 9371) which also doubled the legislative districts in Cagayan de Oro City, the two districts created complied with the minimum population of 250,000 (254,644 and 299,322, respectively), as the Court noted in *Bagabuyo v. COMELEC*.^[31] Contrary to the assertion of the majority opinion, neither *Mariano v. COMELEC* nor *Bagabuyo v. COMELEC* supports the claim that Congress can create a legislative district with a population of less than 250,000. On the contrary, these cases confirm that every legislative district must have a minimum population of 250,000. Only very recently, this Court in *Aldaba v. COMELEC*^[32] struck down a law creating a legislative district in the City of Malolos, which has a population just short of the 250,000 minimum requirement.

RA 9716 Harbinger for Wave of Malapportionments

More than 20 years after the 1987 Constitution took effect, Congress has yet to comply with the Constitution's mandate that "[w]ithin three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section."^[33] Instead, Congress has contented itself with enacting piecemeal reapportionment laws for individual areas, either for this sole purpose^[34] or ancillary to the conversion^[35] or creation^[36] of a local government unit, at the behest of legislators representing the area. As movements

of district lines spell doom or salvation for entrenched political interests, this process subjects Congress to intense pressure to keep off certain districts.

Until RA 9716 came along, Congress was able to balance political exigency with constitutional imperatives. RA 9716 marks a tectonic shift by tilting the balance in favor of entrenched interests, sacrificing the Constitution and ultimately, the ideals of representative democracy, at the altar of political expediency. If left unchecked, laws like RA 9716 will fill the House of Representatives with two breeds of legislators, one, representing districts two, four, ten times more populous than other favored districts, elected by voters holding "mickey mouse votes" and another, representing small, favored districts, elected by voters holding "premium votes" two, four, ten times more valuable than the votes in disfavored districts.

Our oath of office as Justices of this Court forbids us from legitimizing this constitutionally abhorrent scheme, a scheme that for the first time under the 1987 Constitution creates a new politically privileged class of legislators in what is supposed to be a "democratic and republican State."^[37] To uphold RA 9716 is to uphold the blatant violation of the constitutional standards requiring proportional representation and a minimum population in the creation of legislative districts. This will derail our one person, one vote representative democracy from the tracks clearly and precisely laid down in the 1987 Constitution.

And for what end -- to create a special class of legislative districts represented by a new political elite exercising more legislative power than their votes command? Such a grant of privileged political status is the modern day equivalent of a royalty or nobility title, which is banned under the 1987 Constitution. History will not be kind to those who embark on a grotesquely anomalous constitutional revision that is repulsive to our ideals of a "democratic and republican State."

The ruling of the majority today could sound the death knell for the principle of "one person, one vote" that insures equality in voting power. All votes are equal, and there is no vote more equal than others. This equality in voting power is the essence of our democracy. This Court is supposed to be the last bulwark of our democracy. Sadly, here the Court, in ruling that there are some votes more equal than others, has failed in its primordial

constitutional duty to protect the essence of our democracy.

Accordingly, I vote to GRANT the petition and to DECLARE UNCONSTITUTIONAL Republic Act No. 9716 for grossly violating the standards of proportional representation and minimum population in the creation of legislative districts as prescribed in Section 5, Article VI of the 1987 Constitution.

[1] Section 1, Article II of the 1987 Constitution provides: "The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them." (Emphasis supplied)

[2] Section 5(4), Article VI of the Constitution provides: "Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section." (Emphasis supplied)

[3] The creation of the union of the United States of America was nearly aborted because of the bitter controversy in the drafting of the US Constitution on the manner of representation to the US Congress. The debate pitted, on the one hand, small States which wanted representation by State and, on the other hand, delegates who insisted on direct representation, consistent with democratic ideals. The impasse was broken by what is popularly known as the Great Compromise, allowing States to send two representatives to the US Senate (regardless of population) and reserving membership in the US House of Representatives to Congressmen directly elected by the people in legislative districts based on proportional representation. (See *Wesberry v. Sanders*, 376 U.S. 1 [1964].)

[4] Or as a parallel ruling in another jurisdiction puts it:

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system. (*Reynolds v. Sims*, 377 U.S. 533, 562 [1964].)

[5] Save for those elected under the part-list system who represent sectors.

[6] Substantially identical provisions are found in Section 2, Article VIII (1973 Constitution) and Section 5, Article VI (1935 Constitution).

[7] Section 1, Article V of the Constitution provides: "Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage."

[8] Section 1, Article II, 1987 Constitution.

[9] The 1935 and 1973 Constitutions described the Philippines as a "republican State." During the deliberations of the Constitutional Commission, Commissioner Adolfo Azcuna explained that the word "democratic" was added "to emphasize that in this new Constitution there are instances where the people would act directly, and not through their representatives." IV Record of the Constitutional Commission, p. 735, 17 September 1986.

[10] Section 31, Article VI of the 1987 Constitution provides: "No law granting a title of royalty or nobility shall be enacted."

[11] John Adams wrote in 1787 that the "only true definition of a republic" is "a government, in which all men, rich and poor, magistrates and subjects, officers and people, masters and servants, the first citizen and the last, are

equally subject to the laws." The Founders' Constitution, Republican Government, Chapter 4, Document 10, <http://press-pubs.uchicago.edu/founders/documents/v1ch4s10.html>, accessed 3 April 2010.

[12] *Wesberry v. Sanders*, 376 U.S. 1, 11 [1964].

[13] Section 5(1), Article VI, 1987 Constitution.

[14] *Macias v. COMELEC*, No. L-18684, 14 September 1961, 3 SCRA 1, 5-6. The Court took note of the following addition malapportionments: "These were not the only instances of unequal apportionment. We see that Mountain Province has 3 whereas Isabela, Laguna and Cagayan with more inhabitants have 2 each. And then, Capiz, La Union and Ilocos Norte got 2 each, whereas Sulu that has more inhabitants got 1 only. And Leyte with 967,323 inhabitants got 4 only, whereas Iloilo with less inhabitants (966,145) was given 5." (Id. at 6.)

[15] Section 5, Article VI, 1935 Constitution.

[16] Section 1, Article II, 1987 Constitution.

[17] Section 5(4), Article VI, 1987 Constitution.

[18] Section 5(3), Article VI provides: "Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative." (Emphasis supplied)

[19] Section 3, which provides:

Any province that may hereafter be created, or any city whose population may hereafter increase to more than two hundred fifty thousand shall be entitled in the immediately following election to at least one Member or such number of Members as it may be entitled to on the basis of the number of its inhabitants and according to the standards set forth in paragraph (3), Section 5 of Article VI of the Constitution. The number of Members apportioned to the province out of which such new province was created or where the city, whose population has so increased, is geographically located shall be correspondingly adjusted by the Commission on Elections but such adjustment shall not be made within one hundred and twenty days before the election.

[20] See note 22.

[21] Based on Camarines Sur's total population of 1,693,821.

[22] The range of deviations is shown below (based on the 2007 census):

District No.

Population

% Variation From Ideal

1

176,383

- 47.9

2

276,777

- 18.3

3

439,043

+ 29.6

4

372,548

+ 9.9

5

429,070

+ 26.6

[23] *Karcher v. Daggett*, 462 U.S. 725 (1983). The U.S. Supreme Court declared:

Article I, § 2 establishes a "high standard of justice and common sense" for the apportionment of congressional districts: "equal representation for equal numbers of people." x x x. Precise mathematical equality, however, may be impossible to achieve in an imperfect world; therefore the "equal representation" standard is enforced only to the extent of requiring that districts be apportioned to achieve population equality "as nearly as is practicable." x x x As we explained further in *Kirkpatrick v. Preisler*, supra:

"[T]he 'as nearly as practicable' standard requires that the State make a good-faith effort to achieve precise mathematical equality. x x x. Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance, no matter how small."

Article I, § 2, therefore, "permits only the limited population variances which are unavoidable despite a good-faith effort to achieve absolute equality, or for which justification is shown."

x x x

x x x Adopting any standard other than population equality, using the best census data available, x x x would subtly erode the Constitution's ideal of equal representation. If state legislators knew that a certain de minimis level of population differences were acceptable, they would doubtless strive to achieve that level rather than equality. x x x Furthermore, choosing a different standard would import a high degree of arbitrariness into the process of reviewing apportionment plans. x x x. In this case, appellants argue that a maximum deviation of approximately 0.7% should be considered de minimis. If we accept that argument, how are we to regard deviations of 0.8%, 0.95%, 1%, or 1.1%? (Citations omitted; emphasis supplied)

[24] As evident in the following exchange between petitioner and Senator Joker Arroyo (Petition, pp. 23-24):

Sen. Aquino. Mr. President, we have to respond to the last statement. The others that have been recommended together with the Camarines Sur bill were all tested based on one standard, not separate standards for everybody. It is our opinion and that is the source of this discussion and of this debate, that we hold that there is a 250,000-rule embodied in so many provisions of the Constitution. Our distinguished colleague from the Bicol and Makati areas does not agree. I think we have established that we do not agree on our interpretation of the Constitution.

With his permission, Mr. President, since I am against his time, may we move on to the next point so as not be accused of delaying the passage of the bill any further?

May we ask: Why was Libmanan not considered to be a portion of the proposed first district? Because having done the same, instead of having the 170,000-figure, we would have a 269,222 population figure. O achieve

Sen. Arroyo. All right. Look at that map.

Sen. Aquino. May we just move to another rostrum, Mr. President. We cannot view the details from this particular rostrum, with the indulgence of our distinguished colleague.

Sen. Arroyo. As I have said, the brown portion in that map of Camarines Sur — I do not know what district it is but it is - represented by Congressman Fuentebella. He does not want this district touched. There is nothing we can do about it since he does not want it to be touched.

The red portion is represented by Congressman Alfelor. He does not want his district to be touched. The green portion is represented by Congressman Villafuerte. He does not also want it touched. Even if they have a pregnant populace or inhabitants, he does not want it touched.

Now, the first district of Camarines Sur is so big that it consists of 40% of the province, area-wise. Libmanan is the biggest municipality in the entire or present first district. It stuck in the middle. We cannot move that no matter what - because that is the biggest. Anyway, we move it left, we move it right, it would change the configuration. Those are the practical difficulties in trying to figure out how. That is the situation. As we see, there is a water extension of the gulf. We cannot connect them because they are separated by water. So it is no longer contiguous because it is separated by water and there is nothing we can do about it. That is what I was saying about mathematical formula. We cannot have mathematical formula when a natural boundary like water cannot make the municipalities contiguous. That is the picture. It is all there.

The violet is the Tagalog-speaking province. The green is the Bicol-speaking province so that is the only way to divide it. So much has been done in the Lower House in trying to figure it out. But as long as the three Congressmen do not agree, then there is nothing we can do about it. That is the power. For those of us who have served in the House of Representative, what the Congressman says in his district is "king". He is the king there, there is nothing we can do about it. We respect that.

Libmanan is the biggest one. We cannot move that anyway.

Sen. Aquino. Mr. President, the question is, why not include Libmanan in the proposed first district? The proposed first district has the towns of Del Gallego which is, I am not sure, in the northernmost tip of Camarines Sur, Ragay, Lupi, Sipocot, they are all adjacent to each other on the map previously shown and that can be done. That can be reconfigured if we were just using geography and the test of territoriality.

Now, in sequel to that, the proposed second district of Magarao, Panaman (sic) and Camaligan can be placed in the proposed second district and it will have a population of 258,000. The body of water alluded to by our distinguished colleague, it seems in our map that the municipalities mentioned are all on the same side of the waterway. We do not see where the issue of contiguousness comes in to play. The proposed third district, with these changes, would still be having a population of 364,187.

The only point we are trying to raise is that if it just a question of territory and population, there seems to be other ways of having configured these districts to enable Camarines Sur to have its entire complement of six districts. If the answer is, that the congressmen there who are now representing Camarines Sur cannot agree on the other modes of configuring their district, then that is another. But will our distinguished colleague agree that there is no constitutional prohibition for us to reconfigure these districts on a different formula.

Sen. Arroyo. Mr. President, this is where the Senate must differ to the House of Representatives. Redistricting is a local bill and it cannot emanate from the Senate. It will emanate only from the House of Representatives. This has been debated in the House of Representatives over and over and no one could agree. So, in its wisdom, the House of Representatives agreed to what has been presented here. If we agree now it to reconfigure it, the Senate now will be intruding into what is purely a House of Representatives business. This is redistricting. Quite frankly, what business does the Senate have in trying to reconfigure out the provinces when we do not represent any particular district? Only congressmen who are familiar with their own districts

can discuss this. (Emphasis supplied)

[25] Thus, in *Sema v. COMELEC* (G.R. No. 177597, 16 July 2008, 558 SCRA 700) we struck down a statutory provision authorizing a regional legislative assembly to create provinces because the creation of provinces entails the creation of legislative districts which is the sole prerogative of Congress.

[26] Although extant legislation allows creation of provinces with population of less than 250,000 (Section 461(a) of Republic Act No. 7160), this is no reason to validate RA 9716 because Section 5(1) of Article VI trumps any statute. At any rate, the constitutionality of Section 461(a) is not before the Court.

[27] 312 Phil 259 (1995).

[28] G.R. No. 176970, 8 December 2008, 573 SCRA 290.

[29] Thus, the Constitutional Commission's decision to relax the population threshold in Palawan, Benguet, and Baguio and consider other standards in apportioning legislative districts in Cavite (urbanization and livelihood), Maguindanao (political stability), and Laguna (topography), as noted in the Decision.

[30] 312 Phil 259 (1995).

[31] G.R. No. 176970, 8 December 2008, 573 SCRA 290, 309.

[32] G.R. No. 188078, 15 March 2010.

[33] Section 5(4), Article VI.

[34] E.g., RA 9371.

[35] E.g., RA 7854.

[36] E.g., Republic Act No. 4695 creating the provinces of Benguet, Mountain Province, Ifugao and Kalinga-Apayao and providing for their legislative districts.

[37] Section 1, Article II, 1987 Constitution.

CONCURRING AND DISSENTING OPINION

CARPIO MORALES, J.

I concur with the ponencia's discussion on the procedural issue.

"Transcendental importance" doctrine aside, petitioners have the requisite locus standi. Petitioners are suing not only as lawmakers but as taxpayers and citizens as well. At the initiative of a taxpayer, a statute may be nullified, on the supposition that expenditure of public funds for the purpose of administering an unconstitutional act constitutes a misapplication of such funds.[1] Republic Act No. 9716 (R.A. 9716) mandates the creation of another legislative district and indubitably involves the expenditure of public funds.

I DISSENT, however, on the ponencia's conclusion, on the substantive issue, that a population of 250,000 is not an indispensable constitutional requirement for the creation of a new legislative district in a province.

Contrary to the ponencia's assertion, petitioners do not merely rely on Article VI, Section 5 (3) but also on Section 5 (1) of the same Article. [2] Both provisions must be read together in light of the constitutional requirements of population and contiguity.

Section 5 (3) of Article VI disregards the 250,000 population requirement only with respect to existing provinces whose population does not exceed 250,000 or to newly created provinces under the Local Government Code (as long as the income and territory requirements are met).

The ponencia misinterprets *Mariano v. Comelec*.^[3] The actual population of the City of Makati during the Senate deliberations in 1994 on House Bill (H.B.) No. 4264 that was to be enacted into R.A. No. 7854 was 508,174.^[4] That is why the Court in *Mariano* declared:

Petitioners cannot insist that the addition of another legislative district in Makati is not in accord with Section 5(3), Article VI of the Constitution for as of the latest survey (1990 census), the population of Makati stands at only four hundred fifty thousand (450,000). Said section provides, inter alia, that a city with a population of at least two hundred fifty thousand (250,000) shall have at least one representative. Even granting that the population of Makati as of the 1990 census stood at four hundred fifty thousand (450,000), its legislative district may still be increased since it has met the minimum population requirement of two hundred fifty thousand (250,000). In fact, Section 3 of the Ordinance appended to the Constitution provides that a city whose population has increased to more than two hundred fifty thousand (250,000) shall be entitled to at least one congressional representative.^[5] (emphasis in the original)

Nothing in *Mariano* reflects that the Court disregarded the 250,000 population requirement as it merely stated that Makati's legislative district may still be increased as long as the minimum population requirement is met. The permissive declaration at that time presupposes that Makati must still meet the constitutional requirements before it can have another congressional district.

The Local Government Code likewise is not in point since Section 461 thereof tackles the creation of a province and not the reapportioning of a legislative district based on increasing population. There is thus no point in asserting that population is merely an alternative addition to the income requirement.

The ponencia likewise misinterprets *Bagabuyo v. Comelec*.^[6] Notably, the ponencia spliced that portion of the decision in *Bagabuyo* which it cited to suit its argument. Thus the ponencia quotes:

x x x Undeniably, these figures show a disparity in the population sizes of the districts. The Constitution, however, does not require mathematical exactitude or rigid equality as a standard in gauging equality of representation. x x x To ensure quality representation through commonality of interests and ease of access by the representative to the constituents, all that the Constitution requires is that every legislative district should comprise, as far as practicable, contiguous, compact and adjacent territory. (emphasis and underscoring in the original by the ponente)

It omitted that portion which specified the respective total population of the two districts as above 250,000. Thus the full text of the pertinent portion of the decision reads:

The petitioner, unfortunately, did not provide information about the actual population of Cagayan de Oro City. However, we take judicial notice of the August 2007 census of the National Statistics

Office which shows that barangays comprising Cagayan de Oro's first district have a total population of 254,644 while the second district has 299,322 residents. Undeniably, these figures show a disparity in the population sizes of the districts. The Constitution, however, does not require mathematical exactitude or rigid equality as a standard in gauging equality of representation. x x x (emphasis and underscoring supplied)

The two legislative districts of Cagayan de Oro subject of *Bagabuyo* met the minimum population requirement at the time of reapportionment. The ponencia's construal of the disparity in population sizes of the districts involved in *Bagabuyo* clearly differs from the disparity of population in the present case.

The Record of the Constitutional Commission itself declares that the 250,000 benchmark was used in

apportioning the legislative districts in the country. The sponsorship speech of Commissioner Hilario Davide, Jr.[7] reflects so.

x x x x. Each legislative district shall comprise, as far as practicable, contiguous, compact and adjacent territory. EACH CITY OR EACH PROVINCE WITH A POPULATION OF AT LEAST 250,000 SHALL HAVE AT LEAST ONE REPRESENTATIVE. This is Section 5 of the Article on the Legislative. x x x x The ordinance fixes at 200 the number of legislative seats which are, in turn, apportioned among the provinces and cities with a population of at least 250,000 and the Metropolitan Manila area in accordance with the number of their respective inhabitants on the basis of a uniform and progressive ratio. The population is based on the 1986 projection, with the 1980 official enumeration as the point of reckoning. This projection indicates that our population is more or less 56 million. Taking into account the mandate that each city with at least 250,000 inhabitants and each province shall have at least one representative, we at first allotted one seat for each of the 73 provinces; and one each for all cities with a population of at least 250,000, which are the Cities of Manila, Quezon, Pasay, Caloocan, Cebu, Iloilo, Bacolod, Cagayan de Oro, Davao and Zamboanga. Thereafter, we then proceeded to increase whenever appropriate the number of seats for the provinces and cities in accordance with number of their inhabitants on the basis of a uniform and progressive ratio. x x x x. (capitalization, emphasis, italics and underscoring supplied)

The framers of the Constitution intended to apply the minimum population requirement of 250,000 to both cities and provinces in the initial apportionment, in proportion to the country's total population at that time (56 million).

Yet the ponencia asserts that the 250,000 benchmark was used only for the purpose of the 1986 initial apportionment of the legislative districts, and now disregards the benchmark's application in the present petition. It is eerily silent, however, on what the present population yardstick is. If the present estimated population of 90 million is to be the dividend,[8] then there would roughly be one legislative district representative for every 450,000.

Following the constitutional mandate, the population requirement cannot fall below 250,000. This is the average "uniform and progressive ratio" that should prevail. Thus, using the present population figure, the benchmark should be anywhere between 250,000-450,000 persons per district. Using anything less than 250,000 is illogical, for it would operate to allow more than 360 representatives of legislative districts alone on some capricious basis other than the variable of population.

A case in point is the congressional reapportionment done in the provinces of Sultan Kudarat and Zamboanga Sibugay effected through Republic Act No. 9357[9] and Republic Act No. 9360,[10] respectively. At the time of the congressional deliberations and effectivity of these laws, the population count in these provinces more than met the basic standard. Sultan Kudarat already had a population of 522,187 during the 1995 census year,[11] while Zamboanga Sibugay met the population threshold in 2001 with an estimated 503,700 headcount.[12]

The ponencia sweepingly declares that "population was explicitly removed as a factor." [13] Far from it. Population remains the controlling factor. From the discussions in the initial apportionment and districting of Puerto Princesa, Baguio, Cavite, Laguna, Maguindanao and Cebu in 1986, it is clear that population and contiguity were the primary considerations, and the extraneous factors considered were circumspectly subsumed thereto.

The ponencia harps on petitioners' admission that Camarines Sur is actually entitled to SIX legislative districts, given its population of 1,693,821, to justify its conclusion that there is nothing wrong in the creation of another legislative district in the province. This is a wrong premise. It bears noting that petitioners raised the legislative entitlement to underscore the GRAVE ABUSE OF DISCRETION committed in the enactment of R.A. 9716.

R.A. 9716 created one legislative district by reconfiguring the first and second districts. It did not, however, touch

the third and fourth districts which, when properly reapportioned, can easily form another district. No reasons were offered except Senator Joker Arroyo's during the Senate Plenary Debates on H.B. No. 4264, viz: "When it comes to their district, congressmen are kings. We cannot touch them. He [referring to Rep. Villafuerte] does not also want it [referring to the district of Rep. Villafuerte] touched... even if they have a pregnant populace or inhabitants, he does not want it touched." [14]

The resulting population distribution in the present case violates the uniform and progressive ratio prescribed in the Constitution.

Prior to the enactment of R.A. No. 9716, the tally of population percentage per district in Camarines Sur based on its population of 1,693,821 was as follows:

District 1: 24.6%

District 2: 28.03%

District 3: 21.99%

District 4: 25.33%

Compare now the population percentage per district after the passage of R.A. 9716:

District 1: 10.4%

District 2: 16.34%

District 3: 25.9%

District 4: 21.99% (former District 3)

District 5: 25.33% (former District 4)

Remarkably, before R.A. No. 9716, the first district met the 250,000 minimum. After R.A. No. 9716, it suffered a very significant drop in its population from 416,680 to 176,157.

The extraneous factors [15] cited by the ponencia do not suffice to justify the redistricting, particularly the inclusion of the municipality of Libmanan in the second district. Linguistic difference is a weak basis to segregate the municipalities in the redistricting. To sanction that as basis would see a wholesale redistricting of the entire country, given the hundreds of dialects being spoken. Imagine Binondo being segregated from the Tagalog-speaking district of Tondo or Sta. Cruz in Manila on the ground that Fookien is largely spoken in Binondo.

The former first district supposedly occupied 40% of the total land area of Camarines Sur. But the former fourth district (which is now the fifth) comprises the same percentage of land area, if not bigger. If land area was a factor, then the former fourth district should have been re-districted also since it is endowed with a big area like the former first district.

The municipality of Libmanan is supposedly isolated by a body of water from the first district. But so is the municipality of Cabusao which is situated northeast of Libmanan and which is bordered by the same body of water. Yet Cabusao is part of the new first district. Considering the similar geographical location of the two municipalities, there is no compelling reason to segregate Libmanan from the first district and tack it to the newly created second district.

The seminal case of *Reynolds v. Sims* [16] had already ruled that these factors cannot be permissively considered in legislative reapportionment.

x x x Population is, of necessity, the starting point for consideration and the controlling criterion for judgment in legislative apportionment controversies. x x x [We] hold that, as a basic constitutional standard, [equal

protection] requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the [State].

x x x x

[Equal protection] requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable. We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, citizens, or voters. Mathematical exactness or precision is hardly a workable constitutional requirement. So long as the divergences from a strict population principle are constitutionally permissible, but neither history alone, nor economic or other sorts of group interests, are permissible factors in attempting to justify disparities from population-based representation. Citizens, not history or economic interests, cast votes. Considerations of area alone provide an insufficient justification for deviations from the equal-population principle. Again, people, not land or trees or pastures, vote. x x x (emphasis and underscoring supplied)

Undoubtedly, Camarines Sur's malapportionment largely partakes of gerrymandering.[17]

A final word. By pronouncing that "other factors," aside from population, should be considered in the composition of additional districts, thereby adding other requisites despite the Constitution's clear limitation to population and contiguity, the ponencia effectively opens the floodgates to opportunistic lawmakers to reconfigure their own principalia and bantam districts. Leaving open Section 5 of Article VI to arbitrary factors, such as economic, political, socio-cultural, racial and even religious ones, is an invitation to a free-for-all.

In light of the foregoing, I vote to GRANT the petition and DECLARE UNCONSTITUTIONAL Republic Act No. 9716.

[1] Pascual v. Secretary of Public Works, 110 Phil. 331, 342-343 (1960).

[2] Section 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

(2) x x x x

(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

[3] 312 Phil. 259 (1995).

[4] Id. at 272 at footnote 13 which reads: As per the certificate issued by Administrator Tomas Africa of the National Census and Statistics Office, the population of Makati as of 1994 stood at 508, 174 x x x.

[5] Id. at 272-273.

[6] 573 SCRA 290 (2008).

[7] RECORD OF THE CONSTITUTIONAL COMMISSION, Vol. V, p. 949.

[8] As of August 2007, the official population was 88,574,614 Filipinos. The population count was made official with the signing by President Gloria Macapagal-Arroyo of Proclamation No. 1498 on April 16, 2008.

[9] Entitled "AN ACT REAPPORTIONING THE PROVINCE OF SULTAN KUDARAT INTO TWO LEGISLATIVE DISTRICTS" and passed on October 10, 2006.

[10] Entitled "AN ACT CREATING ANOTHER CONGRESSIONAL DISTRICT IN THE PROVINCE OF ZAMBOANGA SIBUGAY, AMENDING FOR THE PURPOSE [RA NO. 8973], OTHERWISE KNOWN AS THE CHARTER OF THE PROVINCE OF ZAMBOANGA SIBUGAY" and passed on July 24, 2006.

[11] <http://www.census.gov.ph/data/census2007/index.html>. Last visited March 30, 2010.

[12] <http://www.census.gov.ph/data/census2007/index.html>. Last visited March 30, 2010. Zamboanga Sibugay's population during the 2000 Census was at 497,239 with an annual growth rate of 1.30%. Thus, the following year (2001), the province met the 500,000 minimum requirement.

[13] Decision, p. 20.

[14] TSN, Senate Plenary Debates, H.B. 4264, September 22, 2009..

[15] Decision, p. 23. These are dialects spoken, size of the original groupings, natural division of the Municipality of Libmanan from the reconfigured first district and the balancing of the areas of the first three districts.

[16] 377 U.S. 533 (1964).

[17] A name given to the process of dividing a state or other territory into the authorized civil or political divisions, but with such a geographical arrangement as to accomplish an ulterior or unlawful purpose, as, for instance, to secure a majority for a given political party in districts where the result would be otherwise if they were divided according to obvious natural lines. (Black's Law Dictionary, 5[th] Ed., p. 618).

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