

IN RE: The Petition for Declaratory Judgment on the Constitutionality of a Joint Resolution of the Legislature of the Republic of Liberia, Leg-002(2010) on the setting of an Electoral Threshold for the conduct of the 2011 Presidential and Legislative Elections approved July 29, 2010

LRSC 43

Heard: September 23, 2010 Decided: October 11, 2010

MR. CHIEF JUSTICE LEWIS delivered the opinion of the Court.

On August 4, 2010, several petitioners filed with the Office of the Chief Clerk of the Supreme Court of Liberia the above-entitled petition. Those filing the petition were: Counselor Marcus R Jones, a citizen of Liberia, opinion leader of Liberia and political leader of the proposed Victory for Change Party in Formation of the Township of Bardnersville, first petitioner; and the Proposed Victory for Change Party, in formation, represented by and thru its Acting National Chairman of the Organizing Committee, attorney-at law Emmanuel Tulay of the City of Monrovia, second petitioner, the Civil Society Organizations of Liberia, to include Center for Democracy and Elections (CENDE), represented by and thru its Director, Mr. Hastings Payenoh; Rice and Rights Foundation, represented by and thru its Director, Mr. James Yarsah, Liberia Democratic Institute (LDI), represented by and thru Mr. Dan Saryee; Center for Democratic Empowerment (CEDE), represented by and thru its Consultant, Mr. Garpu Sampson; Institute for Democracy and Development (IDD), represented by and thru its Coordinator, Mr. Gbellay Marshall; Liberia National NGO Network (LINK), represented by and thru its National Chairman, Counselor John Jukon; Movement for Women Empowerment (MOVE), represented by and thru Ms. Jele Farcarthy; and FOCUS, Inc., represented by and thru its Executive Director, Mr. Anthony L. M. Boakai; National Human Rights Center of Liberia (NHRC), represented by and thru Mr. Alfred Queyjoindi; Naymote-Partners for Democratic Development represented by and thru its Executive Director, Mr. Eddie Jomando; Rescue Alternative Liberia, represented by and thru its Executive Director, Mr. Jarwlee Tweh George; Women and Children Advocacy, represented by and thru its Programs Director, Mr. Daniel D. Valentine, Mr. A. Saydee Monboe II, Executive Director; National Institute for Public Opinion (NIPO), represented by and thru its Executive Director, Mr. Neidoteh B. Torbor and Center for Media and Dramatic Studies, represented by and thru Macolm Joseph, third petitioners, and some ordinary citizens of the Republic of Liberia in persons of Mr. David R. Sonjor, Mr. Lamiel Knowlden. Mr. T. Damacious Saysay and Mr. Francis Saah Kollie, fourth petitioners, of the City of Monrovia, Liberia.

When this case was called for hearing and representation announced for the petitioners, the following questions were put to counsel for petitioners by the Court:

Ques. How does this Court know that the petitioners are part of various organizations? Where are their documents (Articles of Incorporations)?

Ans. Your Honors, they are formed organizations. Their documents were too bulky to attach to the petition.

Ques. How do we know these people are genuine people?

Ans. Your Honors. I want you to take my work for it.

Ques. Counselor Jones, are you listed in the petition as one of the petitioners?

Ans. Yes, Your Honors, the Victory for Change Proposed Political Party which is in formation was authorized by the National Elections Commission.

Ques. So you are not a political party yet?

Ans. No, Your Honors, we are in formation.

THE COURT: The co-petitioner, Counselor Marcus R. Jones is properly before this Court. All other petitioners are not properly before this Court and are estopped from arguing before the Court. It is so ordered.

We quote the petition:

"And now come the petitioners in the cause of action captioned above, humbly requesting this Honorable Court to cite the Attorney General and Minister of Justice to intervene on [behalf of the Government of Liberia) to show cause why petitioners' petition should not be granted declaring the joint resolution to be applied in the conduct of the 2011 general and presidential elections unconstitutional and for reason, showeth the following:

1. Petitioners submit that the Honorable Legislature, contrary to the Organic Law of the Land. The constitution of 1986, drafted and passed resolution LEG-002 (2010) ignoring the 2008 National Census results and failing to set a threshold based on the new population of the country, as legally required by them; the said Joint Resolution approved July 29, 2010 is now before the Foreign Ministry for printing in hand bill: A copy of the said illegal Joint Resolution is hereto attached for easy reference and marked P/1 In bulk.

Issue:

The petitioners request this Honorable Court to determine whether the Act of the Legislature, termed Joint Resolution LEG-002 (2010), ignoring the setting of the electoral threshold in keeping with population growth and movements as revealed by the 2008 National Housing and Population Census in Liberia, violates Article 80(d) and (e) of the 1986 Constitution of Liberia and therefore is unconstitutional and unenforceable?

Article 80(d) and (e) states:

"(d) Each constituency shall have an approximately equal population of 20,000, or such number of citizens as the Legislature shall prescribe in keeping with population growth and movements as revealed by a national census population; provided that the total number of electoral constituencies in the Republic shall not exceed one hundred." (Emphasis)

(e) Immediately following a national census and before the next elections, the Elections Commission shall reapportion the constituencies in accordance with the new population figures so that every constituency shall have as close to the same population as possible, provided, however that a constituency must be solely within a country."

2. Petitioners submit also that amidst tremendous public outcry and expression of dissatisfaction about the passage of the Joint Resolution, the President is reported to have signed and approved the said Joint Resolution into law, pending publication into handbills. This approval was announced in a press briefing by the Press Secretary to the President on August 2, 2010. A copy of the said press briefing note is hereto attached and marked "P/2."

3. Petitioners contend that the drafting, passage and approval of the so-called Joint Resolution LEG-002(2010) is unconstitutional and has no legal basis, and must therefore be declared unconstitutional, and the said Joint Resolution be prohibited from being used as guide by the National Elections Commission (NEC) for the conduct of the 2011 Presidential and General Elections. Petitioners contend that the said Joint Resolution is repugnant to the Constitution and specifically violates Article 80(d) and (e) herein above quoted in count one of this petition.

4. Petitioners contend further that the so-called prescription and establishment of nine (9) new Electoral Constituencies to six (6) counties which have the concentrated bulk of the current population is not only illegal, but also a total disregard for a very important ingredient of democracy. Representative Election is about people, not landscape and as such a violation of Article 48 of the Constitution. Article 48 of the Liberian Constitution provides the following:

"The House of Representatives shall be composed of members elected for a term of six years by the registered voters in each of the legislative constituencies of the counties."

5. Further to count four (4), petitioners wonder, for argument sake, which districts will these nine (9) representatives represent, and what population will they be accountable to, and what geographic area of the respective counties will be demarcated, if the demarcation is to be done by NEC, given the undisputed fact that the law being challenged does not, at all, set a threshold as mandated by the Constitution.

Issue:

The petitioners request this Honorable Court to determine whether or not the Legislature usurped the functions/duties of the National Elections Commission under Article 80(e) of the 1986 Constitution when it maintained the current 64 Legislative seats and at the same time allotted nine (9) new Legislative constituencies to six (6) out of fifteen (15) counties as indicated below to include:

Montserrado County -3

Nimba County -2

Grand Bassa County -1

Lofa County -1

Margibi County -1

Bong County -1

in the absence of a set Threshold?

6. Petitioners contend that the Legislature only have legal authority to set a Threshold in accordance with the new population census, and have the demarcation of electoral districts/constituencies and number of representatives to the office of the National Elections Commission, as required by Article 80(d) and (e) of the 1986 Constitution. No more, and no less.

Issue:

The petitioners further request this Honorable Court to determine whether or not the Legislature can ignore or set aside the results of a national census conducted to determine population growth and movements in Liberia and at the same time apportion seats to counties rather than setting a Threshold as mandated by Article 80(d) of the 1986 Constitution?

7. Petitioners contend that the Act of the Legislature cannot even be in support of or a justification

of the fact or economic, political or social reasons as indicated in the Joint Resolution, because the movements of the population and their present residences are voluntary and that after the crisis there were repatriation and resettlement programs. There were publicities by the LISGIS regarding the conduct of the 2008 census to afford citizens counted where they desired. The Legislature should take into account the social, economic and political issues, and set the new Threshold as the Constitution demands of them. Petitioners submit that it is the duty of the Legislature to provide through budgetary appropriations development programs for the entire country that will encourage citizens to return to their counties of origin, and their failure to do so cannot be a justification for their failure to set the threshold in keeping with constitutional mandate. Petitioners submit that setting the threshold in keeping with the census results is not a discretionary duty, but a mandatory duty of the National Legislature.

Issue:

Petitioners request this Honorable Court to determine whether Article 80(d) which requires the Legislature to set the Threshold based on the national census result before the next General and Presidential Elections. and 80(e) which requires the National Elections Commission to demarcate constituencies based on the Threshold set by the Legislature are clear and mandatory and self-executing provisions of our Constitution, and not discretionary?

8. Petitioners submit that all of them have standing to file this petition before this Honorable court. That as for co-petitioner counselor Marcus Roland Jones, he has standing to bring this petition challenging the constitutionality of the said July 29, 2010 Joint Resolution because of the following reasons:

a) Article 26 of the Constitution of Liberia grants to co-petitioner Counselor Marcus R. Jones and all other petitioners the right to bring such petition. Article 26 provides the following:

"Where any person or any association alleges that any of the rights granted under this Constitution or any legislation or directives are constitutionally contravened, that person or association may invoke the privilege and benefit of court direction, under or writ, including a judgment of unconstitutionality."

Petitioners submit that under Article 26 [of the Constitution) they are not required to show any injury threatened or actual that they may suffer or are suffering under this new provision in our 1986 Constitution. but only to allege that rights granted under the Constitution or any legislation are constitutionally contravened and to seek redress from the court, including a judgment of unconstitutionality which petitioners have now before this Court.

b) Petitioners submit further that co-petitioner as well as the other petitioners have standing to bring this petition because they are authorized and empowered to participate in the Government of their country under Article 21 of the Universal Declaration of Human Rights (UDHR) of 1948, which states that "everyone has the right to take part in the Government of his country." Petitioners request court to take judicial notice of the provisions of UDHR, and that Liberia is a signatory to said instrument, of which petitioners are all citizens.

c) Petitioners submit further that [Article 13(3)) of the African Charter of Human and Peoples Rights (ACHPR) of October 21, 1986 confers standing on petitioners also.

d) The petitioners submit that the Civil Society Organizations as well as the other petitioners also

have standing under provisions of the Constitution of 1986, especially the Preamble of the said Constitution, [as well as] Articles 2, 4 and 26 thereof. Also co-petitioners standing is derived from various regional and international instruments to include:

Petitioners submit that under the Fundamental Objectives and Directive Principles of state policy as enshrined in the 1986 Constitution, they have standing to bring this suit. The Preamble states:

"We the people of the Republic of Liberia ... exercising our natural, inherent and inalienable rights to establish a frame work of government for the purpose of promoting unity, liberty, peace, stability, equality, justice and human rights under the rule of law with opportunities for political, social, moral, spiritual and cultural advancement for our society, for ourselves and for our posterity ... do hereby solemnly make, establish, proclaim and publish this Constitution for the governance of the Republic of Liberia."

Petitioners contend that under these fundamental principles of our Constitution and the directive of state policy, they, along with the rest of the Liberian citizens established, made, proclaimed and published the 1986 constitution for the governance of the Republic of Liberia and as such, they have everything to question their Government/their representatives when they go contrary to the provisions of the social contract entered into under our Constitution as the Joint Resolution which was passed by the Legislature in violation of our Constitution.

e) Petitioners submit that they have standing to challenge the constitutionality of the Joint Resolution under Article 1 of our [1986] Constitution which states:

"All power is inherent in the people. All free governments are instituted by their authority and for their benefit and they have the right to alter and reform the same when their safety and happiness so required."

Under this provision of the Constitution, petitioners contend that the Joint Resolution under review certainly threatens the safety and happiness of petitioners and their members and such, they have the right to intervene to secure their safety and happiness in our struggling democracy which the Joint Resolution has threatened to take away and/or destroy by seeking the aid of this Honorable Court to declare the said Joint Resolution unconstitutional after its review because petitioners are representatives of Civil Society Organizations and their members throughout the land and breath of the Republic of Liberia on whose behalf they serve as watch dogs and advocates for the right, privileges, benefits and obligations in a democratic society as ours. Co-petitioners, Civil Society organizations, hereto attach copies of their documents as evidence of their status as Civil Society Organizations, marked "Exhibit P/4 in bulk."

f) Petitioners further contend that they also have standing to bring this action under the following international instruments as well as regional instruments:

I. The 1948 Universal Declaration of Human Rights (UDHR). Article 21 states: "everyone has the right to take part in the governance of the country."

II. African Charter on Human and Peoples Rights. October 21, 1986, Article 13(3).

III. The African Charter for Popular Participation in Development and Transformation adopted in Arusha, Tanzania (1990) provides that "the nation should be based on full participation and that the human and economic condition of the African people cannot be imposed without their full and effective involvement in creating structures and designing policies and programs that serve the interest

of all as well as to effectively contribute to the development process and share equitably in its benefits."

IV. The International Convention on Civil and Political Rights (ICCPR) [of] December 16, 1966 [which] entered into force January 1976 recognizes "the right to take part in [the] conduct of public affairs directly or indirectly through freely chosen representatives." See Article 25.

9. Petitioners submit that they all have standing to bring this matter for a declaratory judgment because they and their members' peace, happiness and enjoyment (are) threatened with the passage of said law, which if permitted to be enforced, will prejudice and injure them in the full participation in the affairs of their government by depriving them and their members of their constitutionally guaranteed rights to be represented in the National Legislature based upon population, as mandated under Articles 48 and 80(d) and (e) of the [1986] Constitution, respectively, because petitioners and their members are dispersed all over this country who are entitled to full participation, directly or indirectly, in the affairs of their government.

10. Petitioners further contend that they and their members' interest are prejudiced and injured or threatened to be injured when their representatives (the law makers} legislators who were elected by petitioners and their members throughout Liberia to protect, uphold and defend the Constitution and laws of Liberia on their behalf, fail or are wanting in their performance or their oaths, as in the instance of the subject Joint Resolution which is not in the interest of the citizens and the nation Liberia, whose rights, liberty and privileges co-petitioners are their advocates as Civil Society Organizations, they are duty bound and have standing to sue on they and their members behalf to arrest such threatened harm to their interest as to the instant case. Petitioners contend that they and their members will suffer injury and harm should the Joint Resolution be permitted to be used in 2011 Elections because petitioners and their members will be deprived of their additional representation in the Legislature as revealed by the 2008 census which was unconstitutionally set aside by the Joint Resolution.

11. Co-petitioner, the Victory For Change Proposed Political Party (VCP) in formation, as will more fully be seen from copies of letters dated March 9, 2010 from NEC which authorized VCP to canvas for membership throughout Liberia ad copy of one of the letters of introduction from the Ministry of Internal Affairs to County Superintendents informing them to the VCP campaign for membership mobilization In their respective counties are hereto attached and marked "P/3" in bulk, and as such, VCP and their members throughout Liberia have standing to protect the interest of the citizens of Liberia and its members to secure their full political participation and representation in the affairs of their government, which rights are seriously under threat were such law permitted to stand since their interest will not be served. Co-petitioner VCP submits that it and all of its members have a greater stake to advocate for the rights of citizens in Liberia as a political institution in Liberia and which rights are threatened, they have standing to bring such matter to the attention of the government/court for redress as in the instant case. Co-petitioner VCP requests Court to take judicial notice of the fact that it is authorized to canvas for membership throughout the Republic of Liberia and as such, it is a political organization in the making with rights and obligations to protect the citizens of Liberia and its members who have become members of the VCP and as such, have standing to bring this petition challenging the constitutionality and said Joint Resolution.

12. Petitioners submit that as to co-petitioners, Mr. David R. Sonjor, Mr. Lamiel Knowlden, T. Damacious Saysay and Francis Saah Kollie, they also have standing as ordinary citizens of the Republic of Liberia under the relevant laws and regional and international instruments mentioned in this petition and that their rights are threatened by the passage of the Joint Resolution, in that as ordinary citizens, their representatives in the Legislature have failed in the performance of their duties as law makers when they declined to set a threshold to guide the NEC in setting new constituencies based upon the census results, which act will deprive them of their representation in government because co-petitioners are from Lofa, Montserrado and other parts of Liberia who stand to benefit from additional constituencies and as such, additional representation in the Legislature. Therefore to allow the Joint Resolution to stand, will work injury to them and their counties by depriving them of additional representation in violation of Articles 48, 2, BO(d) and (e), as well as the Preamble, respectively of our Constitution.

13. Petitioner submits that under Article 2 of the [1986] Constitution, it is provided: "This Constitution is the supreme and fundamental law of Liberia and its provisions shall have binding force and effect on all authorities and persons throughout the Republic."

Petitioners contend that under his constitutional directive, the Legislature is duty bound to respect, uphold, protect and defend the Constitution and respect it as the Supreme and fundamental law of the land and where, as in this case of the Joint Resolution they have failed to so respect the Constitution as the Supreme and fundamental law, this Court is further empowered to declare the same unconstitutional in keeping with clause 2 of Article 2 of the Constitution, which provides:

"Any laws, treaties, statues, decrees, customs and Regulations found to be inconsistent with it shall to the instant of the inconsistency, be void and of no legal effect. The Supreme Court, pursuant to its power of judicial review, is empowered to declare any inconsistent law unconstitutional."

Petitioner therefore contend that the said Joint Resolution is inconsistent with the spirit and intent of Articles 1, 2, 48, 80(d) and (e), and the Preamble of our 1986 Constitution and must therefore be declared unconstitutional.

Wherefore and in view of the forgoing, petitioners pray this Honorable Court for judgment declaring the said Joint Resolution, LEG-002(2010), passed July 22, 2010 and approved July 29, 2010 unconstitutional and of no legal effect and grant unto petitioners any and all further relief deemed just, legal and equitable under the given circumstances."

We quote the returns of the Republic of Liberia:

The Republic of Liberia respectfully prays Your Honors to refuse jurisdiction over this case for lack of subject matter jurisdiction and deny the baseless and unmeritorious petition for the following legal and factual reasons, to wit:

1. The Republic [of Liberia] says and contends that this petition should be ignored because it is wrongly filed in this Honorable Court the Supreme Court of Liberia. The Republic [of Liberia] contends and maintains that a petition for declaratory judgment is a proceeding properly cognizable in a trial court, specifically, the Circuit Court and not the Supreme Court.

2. Further to count one, the Republic [of Liberia] says in support of its contention raised above, the law on declaratory judgments provides: "All judgments under this chapter may be reviewed in the same way as other judgments." (Emphasis supplied. The Republic [of Liberia] contends that a

judgment being subject of review presupposes that the proceeding out of which the judgment grows must be in a trial court and said Judgment is appealed to an appellate court. The Republic [of Liberia] says the review of judgments from courts of record is a function ascribed to the Supreme Court of Liberia and it is inconceivable and unreasonable to believe or even suggest that the framers of our law intended or would have contemplated to subject a ruling of the Supreme Court to any form of review by whichever authority. Further, an action for a declaratory judgment is not one of the causes, which, by constitutional provision, is cognizable by the Supreme Court in its original jurisdiction. Civil Procedure Law, 1LCLR, chapter 43, sections 43.1. 43.7. The Constitution is clear in its limitation of what shall constitute the original jurisdiction of the Supreme Court. It is provided as follows: "The Supreme Court shall be the final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any authority, both as to law and fact except cases involving ambassadors, ministers, or cases in which a county is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. ... "(emphasis supplied). 1986 Constitution of Liberia, chapter VII, article 66. The instant petition is not one involving ambassadors, ministers or a county as a party. Hence, the totality of the petitioners' petition should be dismissed, and the Republic so prays and submits.

3. In further support of the position herein espoused by the Republic of Liberia, to the effect that a petition for a declaratory judgment is properly cognizable in a subordinate (trial) court of record and not in the Supreme Court, the Republic herein quotes verbatim the relevant section of the controlling statute: "When a proceeding under this chapter involves the determination of an issue of fact, the right to trial by jury may be demanded under the circumstances and in the manner provided in chapter 22 of this title." Ibid, sec. 43.9 1 LCLR 219. The Republic Liberia says that it is clear that declaratory judgments are solely a trial court prerogative since there is no provision for trial by jury in the Supreme Court.

4. The Republic of Liberia says this petition for a declaratory judgment should be further ignored and disregarded for lack of jurisdiction because the alleged petitioners lack legal capacity, in that they have not exhibited/profited, also along with their petition, any evidence to show, first, their legal existence, such as. Articles of Incorporation or of Association, Certificate of Registration, or the like, and second, the authorization given them to bring this suit, such as Board Resolution or otherwise. Petitioners have failed and neglected to annex any such evidence, thereby violating the fundamental legal principle of notice Civil Procedure Law, 1LCLR, tit. 1, sec. 11.2 (1) (e) (1972).

5. The Republic says this petition should be further ignored and disregarded because the petitioners lack legal standing to bring this suit. The Republic contends that for one to maintain an action or a suit, he must have legal standing. The petitioners, whether individually or collectively, have woefully failed and neglected to show that legal standing they have. They have failed to show what injury, if any, they or any of them have suffered as a result of the Joint Resolution passed by the two Houses of the National Legislature.

6. For the legal reasons stated in counts one thru five of these Returns, the Republic says this Court should refuse jurisdiction over the subject matter of this petition for a declaratory judgment and decline to proceed any further with this matter. Civil Procedure Law, 1LCLR, tit. 1, sec. 11.2(1) (a)

(1972).

7. As to the entire petition, the Republic [of Liberia] says and prays that same be denied and dismissed for lack of a factual basis in that, the very premise and foundation of the said petition is false and misleading for the fact that the bogus and non-existent as a matter of law. The Republic says the paper annexed is the proposed Joint Resolution and the signatures appearing thereon merely represent those Houses of the National Legislature. The Republic informs Your Honors that after the proposed Bill/Act is signed by its sponsors, it is put to the floor for debate/deliberations, and it is only after the debate then a votes taken either affirmatively, meaning the Bill is passed into law, or a negative vote, meaning that the Bill is defeated and not passed. The Republic informs Your Honors that it is in the process of the vote that the Bill is passed and not based upon the signatures of its sponsors in its raw form when submitting. It is very possible and likely, as in the instant case of the Joint Resolution that even lawmakers who did not sign the proposed draft Bill can or would, and did vote on the Joint Resolution (Bill). So the signatures on the Joint Resolution being so heavily relied upon by the petitioners are really meaningless to the extent that it represents those who voted for its passage into law. The Republic even questions the mode of acquisition by which the petitioners clandestinely and surreptitiously obtained the draft proposed Joint Resolution when the actual document had not yet been finalized.

8. Further to the above, and in further denial of the veracity of the petition the Republic says the document purporting to be the Joint Resolution attached to the petition is not the same as that actually passed by the Legislature and approved by the President. The difference in the two documents is that the proposal submitted by its sponsors as per the their signatures appearing on the Petitioners' draft, does indeed carry the provisions attacked by the Petitioners in counts three, four and five of the Petition, but what the Petitioners did not know is that after it was presented by its sponsors and exhaustively debated and heatedly argued, it was finally resolved to remove the controversial provisions allowing for the apportionment of seats by the Legislature and deferring that function to the National elections Commission (NEC). This action by the Legislature itself, therefore, leaves nothing more to be discussed and decided by this Court on this subject of the Threshold because the issues of contest have been removed by the Legislators themselves and did not have to wait for Petitioners to bring bogus suit which is nothing more than an opportunity to seek and be given Political relevance, which they do not now have or enjoy. Therefore, The Petition must be denied and dismissed. The Republic attaches to these Returns a copy of the document as was passed by the Legislature, signed by the President, printed and published by the Foreign Ministry, thereby bringing it into existence as a valid law of Liberia, hereby marked Exhibited RL/1.

9. More besides and more importantly, the Republic contends that when a Bill is passed by the Legislature and sent to the President for signature, even if the President signs same, that Act or Bill is not yet law until and unless it is printed into handbills and published by the Ministry of Foreign Affairs. Therefore assuming, arguendo that the document annexed to the Petition is actually the authentic document which is not the case, the fact that it is not yet printed into handbills and published by the Ministry of Foreign Affairs, renders the said document invalid and illegal as a law of Liberia. Even a sixth grader taking civics/social studies classes know or should know this. This is admitted

by the Petitioners themselves in counts one and two of the Petition. That admission by the Petitioners that the Bill is still at the Foreign Ministry awaiting printing into handbills and subsequent publication must operate against the Petitioners because their so-called Petition is premature; there has been no harm suffered by anyone. Petitioners, inclusive. Civil Procedure Law, Chapter 25, Section 25.8, 1LCLR 200. Therefore, if the Resolution, which has been attacked by the Petitioners, is not yet law at the time of filing the suit, then, the Republic contends that there is no controversy to be determined and decided by this Honorable Supreme Court of Liberia. The Republic says our courts cannot decide imaginary problems or controversies which have not yet occurred as it the case at bar. In other words, Declaratory Judgment cannot be prematurely filed or be preventive in nature but must be based on actual occurrences that create or result into actual controversies. The basis for Declaratory Judgment is that there is a controversy and that a judgment in the case will terminate the said controversy. Civil Procedure Law Chapter 43 Section 43.5, 1LCCR 219. This is not the situation in this instant case. The Republic, therefore, prays Your Honors to deny and dismiss this worthless and baseless Petition in its entirety and relieve the Republic from further answering to this false and unmeritorious Petition, since there is no controversy herein to be resolved by Your Honors.

10. The Republic says in particular response to counts 10 and 12 of the Petition, which are the crux of the case, that the 2008 Census results, the Republic says in response thereto that the Petition is speculative, uncertain, contingent and misleading, in that, even assuming, *arguendo*, that a specific figure is to be set by the Legislature, the question remains, how have the Petitioners come to the determination that the said results would create an increase in their representation in the Legislature? Is it not also true or possible that whatever the figure is, could similarly decrease their representation in the Legislature? Unless the Petitioners have a specific figure that they know for a fact to have been approved an unknown figure derived by guessing could go either way. It is therefore premature to speculate and postulate that they would suffer any injury by the passage of the subject Joint Resolution, which thereby deprives them of additional representation in the Legislature. These counts of the Petition, being the basis for the whole suit, and same being mere speculation and conjecture, the said Petition should be dismissed for being unsubstantiated and uncertain.

11. The Republic denies, disclaims and refutes any and all claims, contentions, issues, points and arguments raised in the Petition which were not made a subject of special traverse in these Returns. Wherefore, and in view of foregoing legal and factual reasons, the Republic most respectfully prays Your Honors and this Honorable Court to dismiss, deny, set aside and overrule this baseless, illegal and unmeritorious petition, first, for lack of jurisdiction over the subject matter of the petition, second for lack of legal capacity and legal standing in the petitioners, and finally because there is no controversy to be decided by this Honorable Court, and that Your Honors would grant unto the Republic any and all other and further relief as would be just legal and equitable.

The one issue disposition of this case is whether the petition raises matters which are solely political and which should be confined within the realm of politics. We hold that the matters raised in the petition are solely political and should be confined within the realm of politics.

In *Massaquoi v. Republic*, 3 LLR 411, 416 (1933), this Court held:

"Matters which are by their nature solely political should be confined within the realm of politics. There is a vital difference between justiciable matters and matters political. Courts of law are instituted

for the purpose of deciding only such questions as are susceptible of determination by the application of well recognized rules of law or equity. Political questions cannot, however be determined by courts of law because there are no principles of either law or equity by which they can be decided. The only rule applicable to the adjustment of such questions is the rule of conciliation or compromise; and when a court of law embarks on such turbulent seas, it immediately loses its office as a judicial tribunal and abdicates its forum where pettifogging politicians resort to ventilate their little minds. Any verdict based upon non-judicial matters is therefore illegal, and the appellate court shall remand the cause to be tried de novo."

Were this Court to embark upon such turbulent seas, it would immediately lose its office as a judicial tribunal and abdicate its forum where pettifogging politicians resort to ventilate their little minds. Having determined that the issues raised in the petition are matters political, the alternative writ is quashed.

It is so ordered.

