

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS MARCH TERM, A.D. 2023

BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....CHIEF JUSTICE  
BEFORE HER HONOR JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR JOSEPH N. NAGBE.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR YUSSIF D. KABA.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE

IN RE: THE CONSTITUTIONALITY OF THE NATIONAL ELECTIONS COMMISSION  
PLANNED CONDUCT OF THE VOTERS REGISTRATIONS WITHOUT THE  
DEMARACATION OF THE CONSTITUTIONAL ELECTORAL CONSTITUENCIES.

Heard: April 4, 2023

Decided: April 12, 2023

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

According to legal scholars of constitutional law, “the constitution represents the Supreme written will of the people regarding the framework for their Government. Where a constitution asserts a certain right, or lays down a certain principle of law or procedure, it speaks for the entire people as their supreme law, and it is the paramount authority for all that is done in pursuance of its provisions. The constitution embodies fundamental values and articulates the citizens’ common aspiration for constitutional governance and the rule of law. 16 Am Jur 2d Constitutional Law § 1.

This case challenges this Court to determine the expressed will of the Liberian people espoused in Article 80 (c)(d)&(e) of the Constitution with regards to voters registration in a national election. Before delving into the constitutional interpretation of these provisions and presenting the facts and circumstances that have led to the institution of this “*in re*” proceeding, we must first address certain legal blunders by the lawyers representing the designated parties.

The first of such, is the designation of parties which is not applicable in an “In Re” proceeding; second, is the failure of the petitioner to state the names of the presiding Justice and other Justices before whom the petition is filed. This Court has opined that, an “in re” proceeding is a judicial proceeding in which an adverse party is not formally designated or named or wherein the proceeding is uncontested. This may be done, for example, where a party who has been fined or held in contempt by the Supreme Court prays for reconsideration. “In re” is also used in a title or name of a case where the proceeding involves the determination

of the status of a thing, and therefore the rights of persons generally with respect to that thing”. *In re Counsellor C. Abayomi Cassell*, 28 LLR 107 (1979); *Black’s Law Dictionary, Ninth Edition, page 864*. This Court also notes that in our jurisdiction the term “in re” has been adopted in a proceeding involving contempt, an example of which is in the case: “*In re contempt proceedings against Rodney Sieh*, Supreme Court Opinion, October Term, 2010. In re proceedings are also applicable in this jurisdiction wherein the Supreme Court determines that a proclamation of the Legislature of a particular act usurps some delegated functions of another branch of government.” *In re the Constitutionality of the Amendment of the Senate Rule to Provide for Impeachment*, Supreme Court Opinion, October Term, 2018; *In re Application of Bailey*, 36 LLR, 803 (1990); *In re Counsellor C. Abayomi Cassell*, 28 LLR 107 (1979); *In re Judicial law 12.5 & 12.6*, 24 LLR 37 (1975); *In re Acolatse*, 22 LLR 219 (1973); and *In re Constitutionality of Legislative Act*, 2 LLR 157 (1914). In all these cases parties are not designated as plaintiffs or defendants, petitioners or respondents as is done in the case before us. As regards the lack of indicating the names of the presiding Justice and the Justices sitting on the case, there are well settled precedents, hoary with age in our jurisdiction, that a matter/case must be venue before a particular forum and term, and the presiding judge or justices mentioned therein. Notwithstanding these legal blunders, we note that as same do not injure or affect the substantial rights of anyone, they constitute harmless error. Hence, the request by the designated respondents is denied. *Civil Procedure law, Rev. Code 1: 1.5*

We also deem it necessary to state, that although in the present “in re” proceeding a political alliance is challenging an action by the National Elections Commission, (NEC) the proceeding is not an election matter within the contemplation of the Constitution that mandates that this Court renders an Opinion not later than seven (7) days upon hearing an election matter. The mere fact that political parties, an alliance, a candidate or the NEC are mentioned or challenged in a case does not *ipso facto* make same an election matter. In order for a case to be classified as an election complaint same must first be filed before the National Elections Commission, passed upon by the Hearing Officer and/or the Board of Commissioners of the NEC and any party adversely affected by a decision, elects to perfect an appeal to the Supreme Court. Hence, this not being the case, this Court was not under any legal obligation to render an Opinion in the present “in re” proceeding within the constitutional timeframe of seven (7) days.

We now proceed with the present case. The records show that in February 2022, by the authority of the Legislature, the Liberia Institute of Statistics and Geo-information Service (LIGIS) conducted a National Census across the Republic of Liberia. This process of conducting a National Census is in consonance with Article 39 of the Constitution (1986) which states: “the Legislature shall cause a census of the Republic to be undertaken every ten years.” The Court notes from the records, two letters from the LIGIS dated March 13, 2023, addressed to the Senate and the House of Representatives, through the Speaker and Senate Pro Tempore, respectively, and one dated March 27, 2023, addressed to the Solicitor General of the Republic of Liberia. In all of the aforementioned letters, the LIGIS was submitting copies of the “2022 National Population and Housing Census Provisional Results and roadmap for the completion of the census, including the conduct of the post enumeration survey, and the comprehensive data analysis.”

On March 20, 2023, and in accordance with a schedule approved by the Legislature, the National Elections Commission (NEC) (designated as the respondent herein), commenced the National Voters Registration process to allow voters and their political candidates register for the up-coming National Elections wherein they will exercise their political franchise.

The records show that before the commencement date for National Voters Registration exercise, that is, on March 17, 2023, the within named petitioner, the Collaborating Political

Parties (CPP), filed the present *in re* proceeding against the named respondents styled: “In Re: the Constitutionality of the National Elections Commission Planned Conduct of Voters Registration Without the Demarcation of the Constitutional Electoral Constituencies.” The petitioner alleged that it is an alliance of accredited and certified political parties licensed by the NEC; that it intends to field political candidates and participate in the up-coming National Elections scheduled for October 2023; and that the national voter registration process should be enjoined on grounds that the Legislature failed to set a population threshold for the number of voters in a constituency as required by Article 80 (d)&(e) of the Constitution; that the NEC failed to reapportion the constituencies before commencing voters registration as mandated by the Constitution; that there is a wide disparity in the number of voters in the 73 electoral districts; that the current electoral districts are illegal since they are based on voters and not on population size as required by the Constitution; and that the Supreme Court pursuant to its power of judicial review should declare the national voters registration process unconstitutional, and enjoin same. We quote Counts 1, 2, 3, 4, 5, 7, 8, 9, 12, 13, and 14 of the petition which we have determined, set forth the contentions of the designated petitioner, to wit:

“...PETITIONER’S PETITION

1. That the Petitioner, the Collaborating Political Parties (CPP), is an alliance of accredited political parties, recognized, accredited, certified and licensed by the respondent National Elections Commissions to operate as a collaboration of political parties, and as such is vested with the right to canvas for membership and votes, participate in elections, including the forthcoming October 10, 2023 Presidential and General Elections pursuant to Chapter VIII, Articles 77,78,79,80,81,82,83 and 84 of the Liberian Constitution (1986,as amended). Petitioner submits that at the instance of the certification and accreditation of the Petitioner as a Collaboration of Political Parties by the Respondent, a fiduciary obligation was created between the petitioner and the respondent that legally obligates them to respect and honor every constitutional and statutory law governing elections, including the 1986 Constitution, and specifically those provisions of the 1986 Constitution relating to elections. Petitioner submits further that it has a vested interest and right, both under the Constitution and the Elections Law, in the upcoming Presidential and General Elections not only because its members are legally registered political parties, but also because as it has announced its intention to participate in the upcoming elections and that it will be fielding candidates in all capacities in the said elections. Attached hereto and marked Exhibit “P/1” is Petitioners Certificate of Accreditation issued by the Respondent National Elections Commission and Executive Committee Resolution, Authorizing Petitioner to institute this action.
2. Petitioner says it is instituting this In Re Proceeding relying on the holding of this Honorable Supreme Court of Liberia in the case *The Republic of Liberia, by and thru the Minister, Liberia, Petitioner v. The Leadership of the Liberian National Bar Association of the Republic of the Liberia, by and thru its President J. Emmanuel Wureh et al.* 40LLR 635, 650 (2001). In the case cited herein, this Court held that “in re” proceedings is one remedy severally employed in this jurisdiction to determine the constitutionality of either a law, act or conduct of the Legislative or Executive Branches of Government.
3. Petitioner says that the Constitution of Liberia (1986, as amended) provides at article 80(d) that “[e]ach constituency shall have an approximately equal population of 20,000, or such number of citizens as the legislative shall prescribe in keeping with

**population growth and movements as revealed by a national census; provided that the total number of electoral constituencies in the republic shall not exceed one hundred**” (Emphasis supplied). Petitioner says that same Article, 80(e) provides that “[i] mmediately 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 county.” (Emphasis Ours). Petitioner says that the Liberian constitution commands that both of these prerequisites must be met before the National Elections Commission can proceed with any voter’s registration since every voter must, as a consequence of registration, know what constituency he or she is in and that information is required to be on the registration card of the voter. To adopt a course or policy to proceed with the registration of voters without first having the mentioned preconditions met is not just in clear violation of the Constitution but is unconstitutional. Petitioner therefore respectfully prays this Honorable Court to declare the course announced by the Respondent National Elections Commission unconstitutional and of no legal effect, and that accordingly the Respondent National Elections Commission be directed strictly observe and comply with these constitutional directives.

4. Petitioner says that it challenges the constitutionality of the action by the respondent National Elections Commission as neither the Respondent National Elections Commission nor the Legislature of the Republic has the authority to do any act in contravention of the Constitution and the constitutional mandate or to indulge in acts and activities having the tendency to supersede the Constitution. Petitioner says that all powers and authority exercised by the Legislature and the National Elections Commission grow out of the Constitution and delegation of such functions and authority to those bodies in no way vest in them authority to take action that deviates from the mandates of the Constitution and to act as if they have the authority to do acts that supersede the Constitution. Petitioner says that the intended action by the Respondent National Elections Commission to register voters when the Legislature has not set a threshold for the demarcation of electoral constituencies, is not only a clear departure from the mandates of the Constitution, but a clear violation of the above quoted provisions of the Constitutions and therefore unconstitutional. Petitioner thus prays that this Honorable Court declares the acts and actions of the Respondent National Elections Commission as unconstitutional, void and without any legal effect.
  
5. Petitioner says further to the above that in furtherance of Article 39 of the Liberian Constitution (1986, as amended) which mandates the Legislature to “**cause a census of the Republic to be taken every ten years** “, Article 80(d) further mandates that the Legislature, based upon the census results, “shall” (which means “must”), establish a threshold as to the number of the populace that would constitute a constituency. It is only after the Legislature has done the threshold setting forth how many persons will constitute a constituency, growing out of the results of the most recent census revealing the population concentrations that the Respondent National Elections Commission, by the mandate of the Article 80(e) of the Constitution, must proceed to demarcate the various electoral constituencies. It is only after this demarcation has been done, that the

Respondent National Elections Commission may properly proceed with the registration of voters.

7. Petitioner says that the language and mandate of Article 80(c, d & e) are clear and unambiguous, when it says at (c) that **“every Liberian citizen shall have the right to be registered in a constituency, and to vote in public elections only in the constituency where registered, either in person or by absentee ballots; provided that such citizen shall have the right to change his voting constituency as may be prescribed by the Legislature. (d) that “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 that the total number of electoral constituencies in the Republic shall not exceed one hundred.”(e) “immediately following a national census and before the next election, the Election 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...””**
8. That the mandate of the Constitution, as cited in count seven(7) above is that, the National Legislature shall (which means must) declare and prescribe constituencies based on population growth and movements as revealed by a national census and the Respondent National Elections Commission shall (which also means must) reapportion the constituencies immediately following a national census and before the next elections, consistent with the new population figures so that every constituency shall have as close to the same population as possible .
9. Petitioner says that despite and contrary to the constitutional requirement of Article 80(c,d&e), requiring the Legislature to declare and prescribe constituencies of not less than 20,000 in accordance with population growth and movement, and further requiring the respondent National Elections Commission of Liberia to reapportion the prescribed constituencies based on census data immediately following a national census and before the next election, respondent National Elections Commission of Liberia has engaged in a pattern of constitutional violation, including its failure to request the Legislature to prescribed and declare new constituencies based on census data, and including Respondent’s further failure to reapportion constituencies and re-demarcate electoral districts based on census data as required by law.

12. Petitioner submits that “there is a widespread disparity in the number of voters registered among Liberia’s 73 House of Representatives electoral districts;” and that “the election districting system in Liberia does not respect or guarantee the principle of equal suffrage. Your Honors are further requested to take judicial notice of respondent’s own voters’ registration data, in which some electoral districts have around 13,000 registered voters while other electoral districts have up to 69,000 registered voters (see **Table 1 below**), in violation of Article 80 (e) of the 1986 Constitution, which provides among other things, “...every constituency shall have as close to the same population as possible...”

**Table 1: Number of registered voters per district for the 3 largest and 3 smallest counties as of 2022**

District	Monsterrado	Nimba	Bong	Grand Kru	Rivergee	Gbarpolu
1	46,379	37,457	33,231	18,620	13,971	17,600
2	53,857	35,494	30,042	24,760	15,038	19,499

4	69,893	37,858	29,782			
17	64,041					

13. Petitioner further contends that the current “amalgamated area/boundaries” and electoral districting is illegal and unconstitutional in that it is based on the number of registered voters per district, and not based on the population of a given area, as required by Article 80(d & e) of the 1986 Constitution, which specifically provides at subsection (d) that “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; provided that the total number of electoral constituencies in the Republic shall not exceed one hundred;” and further provides at subsection (e) that “immediately following a national census and before the next election, 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 county”.

14. Petitioner says the current practice of minimum two (2) representative seats per county, distorts the distribution of voters and discriminate against underrepresented groups from freely choosing their representative, in violation of Article 80(d & e) of the 1986 Constitution, and in violation of the principle of universal equal suffrage under Article 25 of the ICCPR and General Comment no.25 as it illegally and unconstitutionally grant more voting weight to one set of voters over others...”

On March 23, 2023, the Clerk of the Supreme Court, pursuant to an order, issued the alternative writ in which it mandated the designated respondents NEC to file returns to the petition on or before March 29, 2023, as well as the Ministry of Justice to file returns on the side of the law as it deems fit.

In obedience to the Supreme Court’s mandate, the designated respondents NEC and the Ministry of Justice filed joint returns wherein they prayed this Court to deny the petition on the basis that the Executive Branch of Government of which the NEC is an autonomous public commission, has no legal authority to command or compel the Legislature to carry out its prescribed constitutional duties; that the LISGIS submitted the provisional census result to the Legislature to set the threshold and reapportion the constituencies; that the national voters registration process is in fulfillment of the Constitution which mandates that every Liberian citizen shall have the right to be registered in a constituency and to vote in public elections only in the constituency registered; and that the Supreme Court should deny and dismiss the petition on its merits. The nine (9) count returns is quoted herein below to wit:

“...RESPONDENTS’ RETURNS

The Government of the Republic of Liberia represented by the Ministry of Justice, and the National Elections Commission, Respondents in the aforesaid cause of action respectfully pray Your Honors and this Honorable Court to deny and dismiss Petitioner’s Petition for the following factual and legal reasons to wit.

1. Respondents, the Republic of Liberia and the National Elections Commission say that the cause of action filed by the Petitioner is a fit subject for dismissal in that while it is true that the matter is venue before this Honorable Court, but said action is not properly before the Court, in that, the said case does not name any person (s) as presiding officer over this case. Our law provides that every case should be venue before a court and should also name the presiding Judge who will hear that case. In the instant case, the

petition is venue “*In the Honorable Supreme Court of Liberia, sitting Its March Term A.D. 2023*” but it does not state the names of the Justices constituting or comprising of the Justices on the Bench who will preside over the said case. For this legal blunder and deficiency, your humble Respondents respectfully pray Your Honors to dismiss and in fact ignore this piece of paper purporting to be a Petition, as though it was never filed. This fact is evidenced by the cover page of the Petitioner’s Petition hereto annexed as Respondents’ Exhibit RS/1 to form cogent part of this return.

2. That as to the entire Petition, Respondents submit and say that Chapter 1, Article 3 of the Liberian Constitution 1986 makes it expressly clear that, Liberia is a Unitary Sovereign State divided into Counties for Administrative purposes. The form of Government is Republican with three separate and coordinate Branches: The Legislative, the Executive and Judiciary. Consistent with the principle of separation of powers and check and balances, no person holding office in one of these branches shall hold office and exercise any of the powers assigned to either of the other two branches, except or otherwise provided in the Constitution; and no person holding office in one of the said branches shall serve on any autonomous public agency.
3. That further to count two above, Respondents submit and say that the Executive Branch of the Government and the National Elections Commission, do not have the legal authority to command or compel the Legislative Branch to carry out and perform its functions outlined in the Constitution.
4. The Petition concerns itself with the Census result as conducted by the Liberia Institute of Statistics and Geo-Information Services (LISGIS). After the said Census was conducted, the LISGIS submitted to the National Legislature to take next steps necessary to give effect to the reapportionment of constituencies or setting the required threshold by which the National Elections Commission would then be able to demarcate new constituencies. The Respondents hereto attach copies of communications exchanged by and among the Ministry of Justice, the LISGIS and the National Legislature (both the House of Representative and the Liberian Senate) hereby marked Exhibit RS/2 in bulk of five sheets.
5. The Respondents further say that there is no action or failure on the part of the National Elections Commission for which this Petition would lie in that the National Elections Commission is in full compliance with the Constitution of Liberia as well as the New Elections Law (1986) as amended on December 15, 2014. The Constitution of Liberia at Article 80 (c) provides the following: “*Every Liberian citizen shall have the right to be registered in a constituency, and to vote in public election only in the constituency where registered, either in person or by absentee ballot; such citizen shall have the right to change his voting constituency as may be prescribed by the Legislature*”. In the instant case, the exercise being conducted by the National Elections Commission is in harmony or compliance with the above quoted provision of the Constitution. At the moment, the entire Republic of Liberia is divided into seventy three (73) Electoral Constituencies, with seventy three (73) members of the House of Representatives and in the voter registration exercise currently taking place; the National Elections Commission is registering every eligible voter in one of those seventy three (73) constituencies.
6. Still further to the above and demonstrating the full compliance with the New Elections Law by the National Election Commission, it is provided as follows: “*No change in the definition of a constituency or a voting precinct shall apply to an Election if the Election day is less than twelve (12) months after the day the change is published*”

*unless the commission announces, at least 120 days before the Election day, that all necessary preparations can be made to allow the changes to apply to the election.” See New Election Law 1986 as Amended, chapter 4 section 4.1(3) applying this provision of the Respondents content and submit that the National Election Commission is not in Violation of this said law by using the present configuration of Electoral constituencies which is currently in existence. In other words, the National Election Commission is applying or conforming to the above provision of the New Election law by registering eligible voters in the existing 73 voting constituencies. Because of this fact, Respondents contend and maintain that this Petition must be denied and dismissed. In fact, and because of this, Respondents insist that except the Legislature comes out with a New Reapportionment of Electoral Constituencies between now and the end of May 2023, there will not be and cannot be any re-demarcation of New Electoral Constituencies for the 2023 General election.*

7. The Constitution of Liberia at Article 80 (d) provides the following: *“Each constituency shall have an approximately equal population of 20,000, or such number of citizen as the Legislature shall prescribe in keeping with population growth and movements as revealed by a National Census; provided that the total numeral of Electoral Constituencies in the Republic of Liberia shall not exceed One hundred.”*(emphasis ours)
8. Against the backdrop of this law, it is clear that the duties to prescribe electoral constituencies is squarely the prerogative of the National Legislature and no one, to include the Executive Branch of Government nor the National Elections Commission itself, has any authority or power to dictate to the National Legislature what do, how to do its work and when to do it. Such action by any person outside the National Legislature shall be an abrogation of the Constitutional doctrine of separation of power. For this reason, the Respondents contend and maintain that this Petition is misdirected at the National Elections Commission and the entire Executive Branch of Government. The Petitioner should direct their efforts or concerns to the National Legislature who has the constitutional right to declare constituencies. Accordingly, the Respondents most respectfully pray this Honorable Supreme Court of Liberia to dismiss the Petition, or, at the very least, to drop the National Elections Commission and the entire Executive Branch of Government as misjoined parties, and if the Petitioner so elect, it should name the National Legislature as the proper Respondent.
9. The Respondents, having shown to this Honorable Court that the National Elections Commission’s every action is in strict compliance with and adherence to both the Constitution and the New Elections law, there is no reason for the filing of this petition because the National Elections Commission has not committed any fault. Having performed its obligation or requirement, the National Elections Commission or the entire Executive Branch of Government is in no position to compel and instruct the National Legislature on what to do or how to perform its duties and when.

WHEREFORE AND IN VIEW OF THE FOREGOING legal and factual reasons, the Respondents, the Executive Branch of the Government of Liberia and the National Elections Commission most respectfully pray your Honors to dismiss this Petition and relieve them from further answering in this proceeding and grant unto the Respondents, any and all other and further relief as would be just, legal and equitable.”

On April 4, 2023, the Supreme Court listened to oral arguments and have decided that there is only one issue dispositive of this case which is: whether or not the Supreme Court should

enjoin the ongoing voters registration exercise due the alleged failure of the NEC to reapportion constituencies pursuant to Article 80(d)(e) of the Constitution (1986).

Article 80 (c)(d) &(e) of the Constitution relied on by all of the parties appearing before the Court, provide as follow:

“c) Every Liberian citizen shall have the right to be registered in a constituency, and to vote in public elections only in the constituency where registered, either in person or by absentee ballot; provided that such citizen shall have the right to change his voting constituency as may be prescribed by the Legislature.

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; provided that the total number of electoral constituencies in the Republic shall not exceed one hundred.

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 county.”

The above quoted Constitutional provision is the controlling law, and as such the Court in providing clarity thereto will not be remiss to first state that in a long line of Opinions the Supreme Court has remained unwavering in holding that, “the Constitution must be interpreted in light of the entire document rather than a sequestered pronouncement; that every provision is of equal importance and even where there is apparent discrepancy between different provisions, the Court should harmonize them if possible.” *Garlawolu et al v. NEC*, 41LLR, 377, 384-386(2003), *the Liberia Institute of Certified Public Accountants v. Ministry of Finance, et al.*, 38LLR 657 (1998), *The Estate of Frank Tolbert v. Gibson-Sonpon*, 37 LLR 113 (1993),.

Given this principle of constitutional law, and having carefully attended to Article 80(c)(d)&(e) in light of other relevant Constitutional provisions which we will reference subsequently in this Opinion, we have determined that there is no discrepancy between the quoted constitutional provision and its sub-sections that requires the Court to belabor in extra research for the purpose of harmonization. To the contrary, we have found that each sub-section is strongly linked and inter-dependent on the other, and as such, this Court will commence its analysis from previous Opinions that are instructive on the issue regarding the creation of threshold by the Legislature and reapportioning of constituencies by the NEC.

We specifically reference the following cases: *In Re: the Petition for Declaratory Judgment on the Constitutionality of 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*, Supreme Court Opinion, Special Session, 2010; and *Liberty Party v. NEC*, Supreme Court Opinion, March Term, A.D. 2011.

A summary of the facts in those cases reveal that on August 12, 2010, the Legislature passed “Joint Resolution LEG-002(2010) wherein it created new electoral threshold for the 2011 Presidential and Legislative Elections by maintaining the existing 64 constituencies created from the 2005 Presidential and Legislative Elections. In addition thereto, the Legislature created/added additional 9 new constituencies to the existing 64 constituencies, making a total of 73 constituencies and mandated the NEC to reapportion the “electoral districts accordingly.”

The records in those cases show that before the passage of the aforementioned Joint Resolution, on May 6, 2010, the Liberty Party filed a petition for the writ of prohibition praying the Supreme Court to prohibit the NEC from demarcating/reapportioning the 64 constituencies already maintained by the Legislature on grounds that the 64 constituencies were already reapportioned/demarcated; that the NEC should uphold the threshold of 47,624 initially established by the Legislature in 2005; and that the NEC be prohibited from reapportioning the 64 constituencies and be restricted only to the newly created nine (9) constituencies.

On August 4, 2010, and while the Liberty Party's case was still pending, Co-petitioner Counsellor Marcus R. Jones and several Civil Society Organizations of Liberia filed a petition for declaratory judgment before the Supreme Court, requesting the Court to declare, Joint Resolution LEG-002(2010) of the Legislature as unconstitutional on the basis that the Legislature created additional constituencies without setting the threshold as required by Article 80 (d) of the Constitution.

The respondent NEC filed returns to the petitions wherein it prayed the Supreme Court to deny the petitions on grounds that the reapportioning of electoral constituencies to the NEC is conferred by law; that the reapportioning exercises will have an equal impact on all political candidates and parties; that initial threshold of 47,624 advanced by the petitioners is unrealistic given the new population growth and movement; and that the petitions were all filed in bad faith to delay the elections process.

The Supreme Court listened to oral arguments and dismissed the petitions stating *inter alia* that "Joint Resolution LEG-002(2010) was clear and needed no further statutory interpretation by the Supreme Court; and that the NEC pursuant to Joint Resolution LEG-002(2010) was authorized by the Legislature to reapportion all the constituencies inclusive of the newly created 9 constituencies.

The above cases clearly show that the LISGIS conducted a National Census; submitted a final report to the Legislature; that the latter acted upon the information revealed by the Census Report and by law set the threshold and established electoral constituencies; and thereafter mandated the NEC to reapportion the electoral constituencies. The cases reveal that pursuant to the act of the Legislature the NEC then proceeded to reapportion the constituencies based upon the threshold set by the Legislature and the establishment of additional electoral constituencies.

Unlike the previous cases cited herein above, in the present case there is no final Census Report. The LISGIS only submitted to the Legislature a provisional result of the 2022 National Population and Housing Census (NPHC) wherein LISGIS informed the Legislature of a road map to completing the national census project which will include post enumeration survey and comprehensive thematic data analysis.

There is no act of the Legislature setting the threshold and establishing electoral constituencies as was done in 2005 and 2011 pursuant to Article 80 (d). Absent a National Census Report and the Legislature's threshold, the NEC lacks the requisite authority to reapportion constituencies pursuant to Article 80 (e)

In view of the above, can the Supreme Court enjoin the NEC from conducting the voter registration exercise on the basis that the NEC failed to comply with Article 80 (e) of the Constitution?

In answering this question this Court takes judicial cognizant of the Constitutional duty ascribed to the NEC under Article 80(e), and the NEC's duty to comply with same. However,

both the Constitution and this Court says that while the NEC has a duty under Article 80 (e) to reapportion constituencies, the said duty is not self-executing; the duty to reapportion constituencies can only be executed based upon the preconditions stated *supra*, viz. a concluded National Census Report, the Legislature's threshold, then the NEC's duty to reapportion the constituencies pursuant to Article 80(e). We hold therefore, that the Supreme Court will not enjoin the ongoing voters' registration exercise, as the NEC is not in violation of the Constitution as regards Article 80(d)(e).

WHEREFORE AND IN VIEW OF THE FOREGOING, the "in re" proceeding is dismissed and we find no reason to disturb the ongoing voters' registration exercise since the NEC is not in violation of the Constitution as regards Article 80(d)(e). The Clerk of this Court is ordered to inform the parties accordingly. Costs are disallowed. AND IT IS HEREBY SO ORDERED.

*Petition denied*