

RESISTING REDISTRICTING: GIVING LIFE TO THE STANDARD OF UNIFORM PROGRESSIVE RATIO AND THE STATE POLICY OF ANTI-GERRYMANDERING*

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ABSTRACT

Thirty-three years since the ratification of the present Constitution, no general reapportionment law has been passed in accordance with Article VI, Section 5. This denies a rapidly changing Philippine population of a rule regarding uniform and progressive representation. There has instead been a trend of parochial redistricting where legislators resort to “piecemeal legislations” often authored by individual district representatives that affect only the sponsor’s particular district. The resulting underrepresentation of several provinces and cities and overrepresentation of others render nugatory the standard of uniform and progressive ratio, and likewise violate the right to equal representation. Similarly, the broad discretion accorded to legislators in passing piecemeal legislations creates an avenue for abuse, often resulting in the retention or expansion of political control through gerrymandering. This article recommends that a true and well-crafted general reapportionment law be regularly passed to restore the standard of uniform and progressive ratio as envisioned by the 1987 Constitution.

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I. INTRODUCTION

In the 18th Congress, Caloocan City, which had a population of 1,583,978, had two representatives, while Marikina City, which only had a population of 450,741, likewise had two representatives. The Province of Rizal, which had a population of 2,884,227, had two representatives, while the Province of Laguna, which had a population of 1,893,800, had four representatives. The Municipality of Taytay in Rizal, which had a population of 319,104, did not have its own representative; in contrast, the Municipality of San Juan in Batangas, which had a population of only 122,180, had one.

It would be an understatement to say that the application of rules on legislative apportionment is inconsistent. In fact, insofar as legislative apportionments are concerned, the provisions setting a standard of a uniform and progressive ratio, as well as commanding the conduct of reapportionment within three years after every census—both of which are unique in the 1987 Constitution—are often overlooked in favor of Paragraph 3, Section 5 of Article VI of the Constitution, which states that “[e]ach 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.”

The current problem is understandable considering how even the Supreme Court, in resolving disputes regarding reapportionment, have disregarded these provisions—although perhaps inadvertently—to come up with the contemporary interpretation, which: (1) allows piecemeal legislations as a means of increasing the number of legislative representatives; (2) sets no minimum population for the creation of districts within provinces; and (3) sets no requirement for the creation of additional districts within cities.

Since the promulgation of the 1987 Constitution, almost all bills on legislative reapportionment filed in the House of Representatives were only piecemeal apportionments—a clear conflict to the requirement under the Constitution to pass general reapportionment laws. This would have been permissible if every city or province entitled to reapportionment were to file a reapportionment bill creating additional legislative districts proportionate to the increase in their respective populations. Such, however, is not the case. The timing of the filing of the reapportionment bills are left solely to the discretion of the members, who often do so only when the resulting reapportionment would be favorable in retaining or extending their power. This results in inequality in representation in the national legislature, in favor of those provinces whose representatives often partake (or are allowed to

partake) of redistricting, which creates a situation conducive to gerrymandering.

Thus, there is a need to reexamine the provisions of the Constitution, and in so doing, take into consideration the Constitution as a whole, including the intent of the framers and the spirit of the provisions. This is necessary in order to come up with an interpretation that reconciles seemingly contradictory provisions in the Constitution and upholds the right of every constituent to equal representation.

There is also a need to provide a clear standard against which the constitutionality of the reapportionment laws emanating from Congress should be measured. The power to realign and create legislative districts, which affects the membership of the House of Representatives, solely relies on Congress. This unchecked power is vulnerable to abuse through utilization of the same for purposes of retaining and expanding one's power in a process otherwise known as gerrymandering.

It is too early to forget that the House of Representatives has the propensity to abuse the power it wields through abhorrent unconstitutional mechanisms such as the pork barrel system,¹ which had only been declared unconstitutional² after the emergence of a whistleblower. The presence of a clear standard would lead to an informed and wary citizenry who are always ready to confront possible abuses that may otherwise be left unchecked or, even if contested, would be afforded with the benefit of presumed constitutionality.³ The Senate defers to the wisdom of the House of Representatives over parochial laws.⁴ The President does not exercise his veto

¹ See *Lawyers Against Monopoly & Poverty (LAMP) v. Sec'y of Budget & Management*, G.R. No. 164987, 670 SCRA 273, Apr. 24, 2012. "While the Court is not unaware of the yoke caused by graft and corruption, the evils propagated by a piece of valid legislation cannot be used as a tool to overstep constitutional limits and arbitrarily annul acts of Congress. Again, 'all presumptions are indulged in favor of constitutionality; one who attacks a statute, alleging unconstitutionality must prove its invalidity beyond a reasonable doubt; that a law may work hardship does not render it unconstitutional.'"; *Phil. Const. Ass'n v. Enriquez*, G.R. No. 113105, 235 SCRA 506, Aug. 19, 1994.

² *Belgica v. Exec. Sec'y*, G.R. No. 208566, 710 SCRA 1, Nov. 19, 2013. See also *SC stops release of PDAF, Malampaya fund*, *RAPPLER*, Sept. 10, 2013, at <https://www.rappler.com/nation/38558-sc-stops-release-pork-barrel>

³ *Tobias v. Abalos* [hereinafter "Tobias"], G.R. No. L-114783, 239 SCRA 106, Dec. 8, 1994. The Court dismissed the contention that the city failed to meet the 250,000 requirement by invoking the doctrine of presumed constitutionality.

⁴ See *Aquino v. COMELEC*, G.R. No. 189793, 617 SCRA 623, Apr. 7, 2010. The Supreme Court quoted a statement from then Senator Joker Arroyo during the discussion of

power over reapportionment laws.⁵ The judiciary remains powerless until the issue is raised before any court,⁶ which may be politically motivated at times.⁷

Furthermore, notwithstanding the very grave and immediate impact of legislative apportionments in the lives of the Filipino people, local jurisprudence is lacking any holistic analysis with respect to the laws on legislative apportionment. Additionally, even the prominent law journals⁸ in this country are bereft of any discussion regarding legislative apportionments. This paper aims to start this discussion.

In this paper, the authors argue that Congress has the constitutional mandate to conduct legislative reapportionments which reflect the standard of uniform and progressive ratio, and in choosing not to, has been violating the Constitution for the past 33 years. In drawing this conclusion, the authors assert that the present interpretation of the Supreme Court, insofar as it removed the population requirement for the entitlement of districts in provinces and permitted the creation of subsequent legislative districts below the 250,000 threshold in cities, violates the Constitution for failing to take into consideration other relevant constitutional provisions.

the apportionment law in a bicameral conference between the Senate and the House of Representatives: “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.”

⁵ Since 2004, no law on apportionment has been vetoed by the President. *See also*: *List: 70 bills vetoed by Aquino*, RAPPLER, June 10, 2013, at <https://www.rappler.com/nation/31022-list-vetoed-bills-president-aquino>; *Camille ELEMIA, Duterte vetoes 7 bills in first 3 years in office*, RAPPLER, June 26, 2019, at <https://www.rappler.com/newsbreak/iq/233899-duterte-year-3-vetoed-bills>

⁶ For instance, the district of Navotas, which according to the 2015 census, has a population below the 250,000 requirement, was not questioned when its cityhood law granted it a separate district in 2007. *See* Rep. Act. No. 9387 (2007). *But see* Jess Diaz, ‘Dato’s new district, 8 others not affected by Supreme Court decision on Malolos’, THE PHILIPPINE STAR, Feb. 2, 2010, available at <https://www.philstar.com/headlines/2010/02/02/545666/datos-new-district-8-others-not-affected-supreme-court-decision-malolos>. In the 2010 article, Malabon-Navotas representative Jaye Lacson Noel said that “both Malabon City and Navotas City hurdle[d] the population requirement.”

⁷ *See* *Aquino v COMELEC* [hereinafter “Aquino”], 617 SCRA 623 and *Aldaba v. COMELEC* [hereinafter “Aldaba”], G.R. No. 188078, 615 SCRA 564, Mar. 15, 2010. In both *Aquino* and *Aldaba*, politics were considerations for filing the case against the constitutionality of the reapportionment laws. *See also* Jesus F. Llanto, *CamSur district unconstitutional, too?*, ABS-CBN NEWS, Jan. 29, 2010, available at <https://news.abs-cbn.com/nation/regions/01/29/10/datos-camsur-district-unconstitutional-too>

⁸ A quick search of *Ateneo Law Journal* volumes 1-63 and *Philippine Law Journal* volumes 1-92 shows that presently, there is no paper focused on the concept of legislative apportionments and reapportionments, as well as the concept of gerrymandering.

In Part I, this paper briefly discusses the concept of legislative apportionments, its history, and the effects thereof in the Philippine political structure. Part II discusses the contemporary rules in legislative reapportionments as interpreted by the Supreme Court. Using the case of *Aquino v. COMELEC*,⁹ which affirmed *Mariano v. COMELEC*,¹⁰ a distinction is made between the application of the rule with respect to provinces and cities. A further distinction is made by virtue of *Aquino* and *Mariano* between cities located within provinces, and cities located in Metro Manila. Part III dissects the present bills on legislative apportionment pending with the House of Representatives and points out inconsistencies in the application and interpretation of the rules. This section explains how the contemporary interpretation by the Supreme Court aided in the eventual malapportionment, in violation of the Constitution and the right of the people to equal representation. Part IV demonstrates that while the process of legislative reapportionments is political in nature, the matter is not a political question and as such falls within the jurisdiction of the courts. Part V attempts to reconcile the constitutional provisions from a more holistic perspective—choosing to focus not only on the constitutional standard of uniform and progressive ratio and the constitutional command of bi-decade general reapportionments, but also on the right to equal protection, and the state policy against gerrymandering. Finally, Part VI recommends short-term and long-term solutions on the legal issues of apportionment.

II. THE CONCEPT OF LEGISLATIVE APPORTIONMENTS

A. Legislative Apportionments Defined

According to Black's Law Dictionary, legislative apportionment is defined as:

...the determination of the number of representatives which a State, country or other subdivision may send to a legislative body. It is the allocation of seats in a legislative body in proportion to the population; the drawing of voting district lines so as to equalize population and voting power among the districts.¹¹

⁹ *Aquino*, 617 SCRA 623.

¹⁰ *Mariano v. COMELEC*, G.R. No. 118577, 242 SCRA 211, 223, Mar. 7, 1995.

¹¹ *Bagabuyo v. COMELEC* [hereinafter "Bagabuyo"], G.R. No. 176970, 573 SCRA 290, 298, Dec. 8, 2008, *citing* BLACK'S LAW DICTIONARY 91 (5th ed. 1981).

In the Philippine context, this pertains to the Ordinance¹² appended to the 1987 Constitution which apportioned 200 out of 250 seats of the House of Representatives to different legislative districts in provinces, cities, and the Metropolitan Manila Area. This was an increase from the 120 seats under the 1935 Constitution, as it gave each province (regardless of population size), city, and the Metropolitan Manila Area, a district.¹³

Legislative reapportionment, in contrast to the former, is the realignment or change in legislative districts brought by a change in population.¹⁴ This is the mandate provided for by the Constitution which requires Congress to conduct a general reapportionment within three years after every census, in consideration of the goal to ensure equality in representation in light of the increasing Philippine population.¹⁵

B. History of the Constitutional Provision on Legislative Apportionment

In this jurisdiction, rules governing legislative apportionment only began when the United States finally allowed partial self-governance to Filipinos through the Philippine Organic Act of 1902. The Organic Act created the Philippine Assembly, which served as the lower house of Congress,¹⁶ and was composed entirely of Filipino representatives elected at large by districts previously delineated under the same law.¹⁷ The districts—which started at 81 during the first Philippine Legislature in 1907, and was increased to 92 during the third Philippine Legislature in 1912¹⁸—were selected by the Philippine Commission (which also served as the upper house), guided by the mandate to apportion the seats of the Philippine Assembly among the provinces as nearly as practicable according to population.¹⁹

The Jones Law, or the Philippine Autonomy Act of 1916, finally opened the positions in the Philippine Senate to Filipinos and divided the country into 12 senatorial districts (with two senators elected from each

¹² CONST. (Ordinance).

¹³ § 1.

¹⁴ *Bagabiyo*, 573 SCRA at 298, *citing* BLACK'S LAW DICTIONARY 1137 (5th ed. 1981).

¹⁵ CONST. art. VI, § 5(4).

¹⁶ The Philippine Commission, serving as the Upper House, was composed of U.S. Citizens selected by the U.S. senate.

¹⁷ *The History of the Senate of the Philippines*, OFFICIAL GAZETTE, *available at* <https://www.officialgazette.gov.ph/featured/the-history-of-the-senate-of-the-philippines>

¹⁸ *Id.*

¹⁹ PHIL. ORGANIC ACT (1902), § 7.

district)²⁰ and 90 representative districts (with one member of the House of Representatives elected for each district).²¹ Also noteworthy is that Section 16 of the Jones Law specifically vested in the Philippine Legislature the authority to redistrict the Philippine Islands:

Section 16. [...] Provided further, That thereafter elections shall be held only on such days and under such regulations as to ballots, voting, and qualifications of electors as may be prescribed by the *Philippine Legislature, to which is hereby given authority to redistrict the Philippine Islands* and modify, amend, or repeal any provision of this section, except such as refer to appointive senators and representatives.²²

Section 5, Article VI of the 1935 Constitution, retained the concept of legislative apportionment together with “district” as the basic unit of apportionment.²³ The mandate for the legislative body to pass an apportionment law within a period of time from the last survey of population was also first found in this Constitution.

Section 1. The Legislative power shall be vested in a National Assembly. The Members of the National Assembly shall not exceed one hundred and twenty, shall be chosen every three years, and *shall be apportioned among the several provinces as nearly as may be according to the number of their respective inhabitants, but each province shall have at least one Member*. The National Assembly shall by law make an apportionment within three years after the return of every enumeration, and not otherwise. Until such apportionment shall have been made, the National Assembly shall consist of ninety-eight Members, of whom eighty-seven shall be elected by the representative districts as now provided by law; and three by the Mountain Province, and one by each of the other eight existing special provinces. The Members of the National Assembly in the provinces of Sulu, Lanao, and Cotabato shall be chosen as may be determined by law; in all other provinces they shall be elected by the qualified voters therein.²⁴

The 1935 Constitution was amended in 1940 to abolish the unicameral legislature and replace it with a bicameral legislative body composed of the Senate and the House of Representatives. It is this

²⁰ JONES LAW, § 13; *See supra* note 17.

²¹ *Id.* at § 14; *See supra* note 17.

²² *Id.* at § 16. (Emphasis supplied.)

²³ *Bagabuyo*, 573 SCRA at 303.

²⁴ CONST. (1935), art. VI, § 1. (Emphasis supplied.)

amendment that inserted the phrase which requires the reapportioning of legislative districts to follow, “as far as practicable, contiguous and compact territory.”

Section 5. The House of Representatives shall be composed of not more than one hundred and twenty Members who shall be apportioned among the several provinces as nearly as may be accorded to the number of their respective inhabitants, but each province shall have at least one Member. The Congress shall by law make an apportionment within three years after the return of every enumeration, and not otherwise. Until such apportionment shall have been made, the House of Representatives shall have the same number of Members as that fixed by law for the National Assembly, who shall be elected by the qualified electors from the present Assembly districts. *Each representative district shall comprise, as far as practicable, contiguous and compact territory.*²⁵

The short-lived 1973 Constitution was the first to introduce the concept of apportionment on the basis of a uniform and progressive ratio:

Section 2. The Batasang Pambansa which shall be composed of not more than 200 Members unless otherwise provided by law, shall include representatives elected from the different regions of the Philippines, those elected or selected from various sectors as may be provided by law, and those chosen by the President from the members of the Cabinet. Regional representatives shall be *apportioned among the regions in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio.*²⁶

The 1987 Constitution is a combination of the past Constitutions’ provisions, with the exception of the inclusion of a party-list system.

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.

* * *

²⁵ CONST. (1935, amended), art. VI, § 5. (Emphasis supplied.)

²⁶ CONST. (1973), art. VIII, § 2. (Emphasis supplied.)

(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.²⁷

The 1987 Constitution is appended with an Ordinance which contains the original apportionment.²⁸ The following relevant provision governs the rule on apportionment:

Section 3. 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.²⁹

One of the key features of the 1987 Constitution is that the phrase “as nearly as may be according to the respective inhabitants” in the 1935 Constitution was changed to the more precise “in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio.” 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.³⁰

Another notable distinction is that the phrase “until such apportionment shall have been made, the House of Representatives shall have the same number of Members as that fixed by law for the National Assembly,”

²⁷ CONST. art. VI, § 5.

²⁸ CONST. (Ordinance), § 2.

²⁹ § 3.

³⁰ *Aquino*, 617 SCRA at 657 (Carpio, J., *dissenting*).

is no longer present in the present Constitution. This suggests that inequitable representation as a result of inaction by Congress to the increasing population is no longer countenanced by the Constitution.³¹

C. Effect of Legislative Apportionments

1. *Additional Seat in the House of Representatives*

Under Section 5(1) of Article VI, members of the House of Representatives are elected from legislative districts.³² Hence, when a legislative reapportionment has for its effect the creation of a new legislative district, the necessary consequence is the increase in the members of the House of Representatives.

The rationale of Article VI, Section 5 lies in ensuring political representation and safeguarding the means to guarantee that the constituents of a legislative district are sufficiently and effectively represented.³³ By subdividing a district and providing an additional district representative, the interests of the people will be proportionately represented as a consequence of the ever-growing population.

Hence, authors and proponents of legislative reapportionments creating new legislative districts always use “better representation” as the rationale for reapportionment.³⁴ For example, on one hand, Representative Joaquin Chipeco, Jr. said consensus-building for purposes of legislation becomes problematic in heavily populated districts.³⁵ Representative Dan Fernandez, on the other hand, argues that an increasing population creates an imbalance between population and income, hence, the creation of a separate

³¹ JOAQUIN BERNAS, *THE 1987 CONSTITUTION OF THE PHILIPPINES: A COMMENTARY* 74 (2009 ed.).

³² CONST. art. VI, § 5(1).

³³ *Bagabuyo*, 573 SCRA at 305.

³⁴ Karen Tiongson-Mayrina & Brenda Barrientos-Vallarta, *Even with more congressman in 2016, many PHL areas still underrepresented*, GMA NEWS, Feb. 3, 2016, at <https://www.gmanetwork.com/news/news/specialreports/553824/even-with-more-congressmen-in-2016-many-phl-areas-still-unrepresented/story>. “While a piece of legislation does not speak for the number of people in a district, a congressman with a manageable number of constituents ‘can properly hear the grievances and see the needs of the people,’ said Guilbert Samson, chief of staff of Bulacan First District Rep. Ma. Victoria Sy-Alvarado.”

³⁵ *Id.*

district will lead to two sets of programs and services which would be favorable to the people.³⁶

2. Creation of Additional Sangguniang Panlalawigan and Panlungsod Seats

Section 41 of the Local Government Code provides that members of the *sangguniang panlalawigan* and *sangguniang panlungsod* are voted on the basis of districts.³⁷ Aside from an increase in the members of the House of Representatives, the creation of an additional district has the effect of creating six to ten *sangguniang panlalawigan* seats in the provincial government depending on the income classification of the province,³⁸ as well as additional *sangguniang panlungsod* seats in the city council depending on the location and number of districts within the city.³⁹

The rationale for the foregoing is the same: an adequate and proportionate representation in the provincial and city council, taking into consideration the increasing population in the districts.⁴⁰ The role of the *sangguniang panlalawigan* and *panlungsod* is to serve as the legislative body of the province (*lalawigan*) or the city (*lungsod*) that would enact relevant laws based on the needs of the people in the different districts of their respective local governments.⁴¹

D. Gerrymandering

Before discussing the concept of gerrymandering, it is first important to properly define the term to understand its significance. The word “gerrymander” has been used with such ignorance and carelessness, not only

³⁶ Karen Tiongson-Mayrina & Brenda Barreintos-Vallarta, *Is ‘piecemeal’ redistricting a questionable process?*, GMA NEWS, Feb. 2, 2016, at <https://www.gmanetwork.com/news/news//specialreports/553675/is-piecemeal-redistricting-a-questionable-process/story>.

“Hindi na balanse (ang representation) e. Dumadami ang tao, lumalaki ang income. With a separate district, there will be two sets of programs and services,” Fernandez said. “It is not favorable to me. It is favorable to the people.”

³⁷ LOCAL GOV'T. CODE, § 41(b).

³⁸ Rep. Act No. 6637 (1987), § 2, amending Rep. Act No. 6636 (1987), § 4. First and second class provinces shall have ten (10) elective sanggunian members; third and fourth class provinces, eight (8); and fifth and sixth class provinces, six (6).

³⁹ Rep. Act No. 7166 (1991), § 3(a). *See also* COMELEC Res. No. 10418.

⁴⁰ *Bagabuyo*, 573 SCRA at 308.

⁴¹ *Id.* *See also* LOCAL GOV'T. CODE, § 48.

in the United States⁴² but also in this country, as found in news articles,⁴³ research papers,⁴⁴ commentaries,⁴⁵ and even Supreme Court decisions.⁴⁶ On several occasions, the term “gerrymandering” has been used to label the creation, division, merger, abolition, or substantial alteration of boundaries of local governments that favors a certain political interest.

The concept of gerrymandering has existed as early as the 18th century in the United States.⁴⁷ However, the actual term “gerrymander” was first used

⁴² ELMER CUMMINGS GRIFFITH, *THE RISE AND DEVELOPMENT OF THE GERRYMANDER* 15, (Kessinger Publishing LLC, 2010) (1974).

⁴³ Manuel L. Quezon III, *Gerrymandering is alive and well*, PHIL. DAILY INQUIRER, Apr. 17, 2009, available at <https://opinion.inquirer.net/120829/gerrymandering-is-alive-and-well>; Alejandro del Rosario, *Fragmentation*, MANILA STANDARD, Nov. 2, 2018, available at <https://manilastandard.net/mobile/article/281007>. The authors in the previous articles used the term “gerrymandering” to refer to the plans to split the province of Palawan into three provinces.; Arjay L. Balinbin, *Analysts flag concerns on carving up Palawan*, BUSINESS WORLD, Apr. 14, 2019, available at <https://www.bworldonline.com/analysts-flag-concerns-on-carving-up-palawan>. One of the interviewees called the division of a province into smaller provinces as gerrymandering. But one of the interviewees said that for him, gerrymandering only applies to congressional districts; Jose Cielito Reganit, *Solon hits alleged SC delay in resolving Sulu poll centers issue*, May 7, 2019, PHILIPPINE NEWS AGENCY, available at <https://www.pna.gov.ph/articles/1069144>. The author quotes Deputy Speaker Arbison in calling the clustering of some barangays into one voting center as one that is tantamount to “gerrymandering.”

⁴⁴ Joseph J. Capuno, *Fiscal Transfers and Gerrymandering Under Decentralization in the Philippines*, UP SCHOOL OF ECONOMICS DISCUSSION PAPERS 201304 (2013). The study focuses on the increase in the number of cities and called it an effect of gerrymandering.

⁴⁵ 2 HECTOR S. DE LEON, PHILIPPINE CONSTITUTIONAL LAW 509 (1991 ed.).

⁴⁶ *See* *Miranda v. Aguirre*, G.R. No. 133064, 314 SCRA 603, Sept. 16, 1999. The Court said that the plebiscite requirement for the conversion of a city is in order to avoid gerrymandering; *League of Cities of the Philippines v. COMELEC*, G.R. No. 176951, 643 SCRA 150, Feb. 15, 2011 (Reyes, J., *dissenting*). The case also established that the plebiscite for the conversion of a city was created in order to avoid gerrymandering; *Navarro v. Ermita*, G.R. No. 180050, 612 SCRA 131, Feb. 10, 2010. The Court properly defined gerrymandering and even cited Fr. Joaquin G. Bernas, but despite this, still held there is no gerrymandering as claimed by petitioners because the allegation that the creation of the province and the exclusion of Siargao thereto was done for complete political dominance by the present Congressman was “unsubstantiated”; *But see Tobias*, 239 SCRA 106. The Court properly defined the term gerrymandering and dismissed petitioners’ contention by saying that Representative Zamora cannot be said to have gained from the separation of San Juan and Mandaluyong because he has consistently won in both local governments and that the reduction of constituencies cannot be considered as favorable; *Ceniza v. COMELEC*, G.R. No. L-52304, 95 SCRA 763, Jan. 28, 1980. The Supreme Court properly dismissed petitioners’ argument that the conversion of Mandaue into a highly urbanized city was a form of gerrymandering. In *Ceniza*, the Supreme Court used the correct definition of gerrymandering and said the case does not involve reapportionment of districts.

⁴⁷ *Vieth v. Jubelirer*, 124 S. Ct. 1769, 1774-75 (2004), *citing* ELMER CUMMINGS GRIFFITH, *THE RISE AND DEVELOPMENT OF THE GERRYMANDER* 26-28 (Kessinger Publishing LLC, 2010) (1974).

on March 26, 1812 by the Boston Gazette in reference to the outrageous political redistricting by Massachusetts Governor Elbridge Gerry for the benefit of the Democratic-Republican Party.⁴⁸ When the new state senatorial district alignment was plotted in the map, it had an odd and peculiar shape which resembled a salamander; hence, the coined term of “gerrymandering.”⁴⁹

Today, the definition of gerrymandering in the United States is still the same. It pertains to the manipulation of “district boundaries” in order to benefit a particular party or group. The issue of redistricting is very controversial in the United States given their system of government that is strong on party difference. Hence, legislative reapportionments of districts were done in consideration of race, gender, and beliefs, wherein people were scattered or grouped together according to these variables in order to ensure the win of a political party in that given district.

The Philippines, however, has an ill-developed political party system characterized as being built around personalities rather than political programs or platforms, thus resulting in the tradition of political turncoatism.⁵⁰ Hence, the concept of gerrymandering, as applied in the United States, cannot be similarly applied here. As a result, the term is often confused with the more controversial creation, division, merger, abolition, or substantial alteration of boundaries of local governments.

Nevertheless, the proper definition of gerrymandering should be used considering how it is still applicable in this jurisdiction since members of the House of Representatives are elected based on districts. Moreover, members themselves are empowered to realign or create new districts, subject to compliance with certain constitutional provisions.

For purposes of this discussion, the meaning of gerrymandering set forth by Father Joaquin Bernas, S.J., one of the drafters of the 1987 Constitution, is particularly instructive. It is defined as “the creation of representative districts out of separate portions of territory in order to favor a candidate[.]”⁵¹ which suggests, as it would be shown later, that the framers

⁴⁸ *Id.*

⁴⁹ Kenneth C. Martis, *The Original Gerrymander*, 27 POL. GEOGRAPHY 833-834 (2008), available at https://www.researchgate.net/publication/248442241_The_original_gerrymander; *Vieth v. Jubelirer*, 124 S. Ct. 1769, 1774-75 (2004), citing Webster’s New International Dictionary 1052 (1945 ed.). The “salamander” contemplated was a mythical creature and should not be confused with the amphibious animal also called salamander.

⁵⁰ Nathan Gilbert Quimpo, *The Philippines: Political Parties and Corruption*, SE. ASIAN AFFAIRS 277 (2007).

⁵¹ Bernas, *supra* note 31, at 702.

of the 1987 Constitution were aware of the correct definition of gerrymandering. In fact, the same word was used during the constitutional deliberations several times and became a factor in both the creation of the initial apportionment and in drafting the constitutional safeguard requiring districts to be composed of contiguous, compact, and adjacent territories.⁵² Unfortunately, despite this constitutional safeguard, the practice of gerrymandering has been prevalent since 2000.

The authors argue that the practice of gerrymandering in our jurisdiction can be categorized into two. *First*, is the creation of legislative districts through a compromise, usually among politicians, in order to avoid a clash in the succeeding elections. In this category, one party is often the incumbent representative, while the other is either a former representative or a local politician already on his last term. *Second*, it is the creation of legislative districts in furtherance of political dynasties, wherein incumbent district representatives will create new districts in order to put their relatives into a position of power.

1. *Gerrymandering as a Compromise*

The following are examples of cases where gerrymandering manifested itself as a compromise between politicians who had historically always faced each other in elections, at the expense of each other's resources.

In the case of the former lone district of Malabon-Navotas, then third-term District Representative Frederico Sandoval II filed House Bill 5500⁵³ during the 13th Congress which converted Navotas into a highly-urbanized city.⁵⁴ However, the plebiscite was only conducted during the 14th Congress while the seat was occupied by Representative Sandoval's brother who acted as a "seat-warmer."⁵⁵ By virtue of its cityhood, and pursuant to the doctrines pronounced in the case of *Tobias v. Abalos*,⁵⁶ a new and separate legislative district for the City of Navotas was created for the succeeding elections. Representative Sandoval ran again as representative of the 15th

⁵² RECORD CONST. COMM'N 107 (Oct. 13, 1986), *available at* <https://www.officialgazette.gov.ph/1986/10/13/r-c-c-no-107-monday-october-13-1986>

⁵³ H. No. 5500, 13th Cong., 2nd Sess. (2006).

⁵⁴ Maria Althea Teves, *Malabon, Navotas to elect separate solons for first time*, ABS CBN NEWS, May 9, 2010, *at* <https://news.abs-cbn.com/-depth/05/09/10/malabon-navotas-elect-separate-congressmen-first-time>

⁵⁵ Karen Tiongson-Mayrina, *Lawmakers running in new districts they created*, GMA NEWS, Apr. 5, 2010, *at* <https://www.gmanetwork.com/news/news/nation/187709/lawmakers-running-in-new-districts-they-created/story>

⁵⁶ *Tobias*, 239 SCRA 106.

Congress, this time for the sole legislative district of Malabon, while then Mayor Tobias Tiangco, who was on his third and last term as Navotas Mayor, and whose family's political bailiwick was Navotas, ran unopposed for the newly-created position.⁵⁷ As a result, Representative Sandoval was able to avoid a clash with Tiangco. Unfortunately for Representative Sandoval, he lost⁵⁸ to Representative Josephine Lacson-Noel.⁵⁹

In the case of the province of Lanao Del Norte, then 1st District Representative Vicente Belmonte, Jr. filed House Bill 4054 which aimed to create a new and separate legislative district for the City of Iligan.⁶⁰ The bill was enacted into law as Republic Act No. 9724 on October 20, 2009.⁶¹ By creating a new legislative district, Representative Belmonte was able to avoid a clash against former opponent Imelda Quibranza-Dimaporo of the Dimaporo Clan, whose claim for the seat went all the way up to the Supreme Court,⁶² and whose mother and aunt were the incumbent governor and representative of the 2nd District, respectively. The apportionment served as a "compromise" favorable to the two parties as both Belmonte and Dimaporo ended up winning their seats in the 2010 election.⁶³

In the case of the province of Aklan, District Representative Carlito Marquez filed House Bills 4670 and 7522 during the 17th Congress, seeking to split the province of Aklan into two legislative districts. These bills were essentially copies of the bill filed by former Representative Teodorico Haresco, Jr., whom Marquez defeated in 2016. This was eventually enacted into law as Republic Act No. 11077 on January 16, 2019.⁶⁴ During the May 2019 elections, Carlito Marquez and Teodorico Haresco, Jr. ran for the two Congressional posts and both won as representatives for the 18th Congress.⁶⁵

⁵⁷ Tiongson-Mayrina, *supra* note 55.

⁵⁸ Karen Tiongson-Mayrina, *2010 elections reinforce Cojuangco control of Tarlac*, GMA NEWS, July 22, 2010, at <https://www.gmanetwork.com/news/news/specialreports/196724/2010-elections-reinforce-cojuangco-control-of-tarlac/story>

⁵⁹ Sandoval v. House of Representatives Electoral Tribunal, G.R. No. 190067, 614 SCRA 793, Mar. 9, 2010.

⁶⁰ H. No. 04054, 14th Cong., 1st Sess. (2008).

⁶¹ Rep. Act No. 9724 (2009).

⁶² Dimaporo v. COMELEC, G.R. 179285, 544 SCRA 381, Feb. 11, 2008.

⁶³ Violeta M. Gloria, *Dimaporos reign over Lanao del Norte*, MINDANNEWS, May 14, 2010, at <https://www.mindanews.com/top-stories/2010/05/dimaporos-reign-over-lanao-norte>

⁶⁴ Michael Bueza, *Aklan splits into two congressional districts*, RAPPLER, Sept. 25, 2018, at <https://www.rappler.com/nation/212809-aklan-split-two-congressional-districts>

⁶⁵ Tara Yap, *Aklan marks historic elections after redistricting*, PHILIPPINE DAILY INQUIRER, May 18, 2019, available at <https://news.mb.com.ph/2019/05/18/aklan-marks-historic-elections-after-redistricting>

In the case of the Province of Camarines Sur, in what was perhaps the most controversial case of gerrymandering, District Representative Luis Villafuerte, Jr. filed House Bill 4264 during the 14th Congress which aimed to create a new district in Camarines Sur by reapportioning the former 1st and 2nd districts. During Senate deliberations, the bill was opposed by Liberal Party Senators Benigno Aquino III, Manuel Roxas, Rodolfo Biazon, and Francis Pangilinan for failing to meet the population requirement of 250,000 people.⁶⁶ Additionally, Senator Aquino alleged that the creation of the new district was to accommodate current 1st District Representative Dato Arroyo (son of President Gloria Macapagal-Arroyo) by providing another district to run for. This was because his opponent for the 1st District would have been returning former 1st District Representative and Budget Secretary Ronaldo Andaya—whose family had huge political clout in the 1st District for two decades.⁶⁷

Despite the opposition and the controversy it created, the bill was approved and signed by President Arroyo. Republic Act No. 9716 became effective on October 14, 2009, just before the May 2010 elections.⁶⁸ The controversy then became the subject of *Aquino v. COMELEC*,⁶⁹ when Senator Aquino filed a case in the Supreme Court to declare the law as unconstitutional for violating the population requirement. Despite allegations of gerrymandering, and the then existing practice that each district in provinces should have at least 250,000 people, the Supreme Court ruled in favor of the constitutionality of the law, holding that the minimum population requirement only applies to cities and not to provinces.⁷⁰ In her dissenting opinion, Justice Carpio-Morales said that the malapportionment largely partakes of gerrymandering.⁷¹

This could be contrasted to an earlier Supreme Court ruling involving the reapportionment of the Province of Bulacan by creating a separate district for Malolos City under Republic Act No. 9591.⁷² The Supreme Court held that Republic Act No. 9591 violated the provision of the Constitution which requires a minimum population of 250,000 for a city to have its own

⁶⁶ Amita Legaspi, *Senate OKs new CamSur district on 2nd reading*, GMA NEWS, Sept. 23, 2009, at <https://www.gmanetwork.com/news/news/nation/172989/senate-oks-new-camsur-district-on-2nd-reading/story>

⁶⁷ Jesus F. Llanto, *CamSur district unconstitutional, too?*, ABS CBN NEWS, Jan. 29, 2010, at <https://news.abs-cbn.com/nation/regions/01/29/10/datos-camsur-district-unconstitutional-too>

⁶⁸ Rep. Act No. 9591 (2010).

⁶⁹ *Aquino*, 617 SCRA at 630.

⁷⁰ *Id.* at 640.

⁷¹ *Id.* at 680 (Carpio-Morales, J., *dissenting*).

⁷² *Aldaba*, 615 SCRA 564.

representative in Congress.⁷³ Unlike the reapportionment law of Camarines Sur, however, this was heavily supported by members of the Liberal Party, including Senator Aquino who sponsored the legislation. It was alleged that the law partook of gerrymandering as it was made to accommodate the political career of outgoing Malolos Mayor Danilo Domingo, who was planning to run as the first representative of the new district under the Liberal Party and against the Alvarado family.⁷⁴

2. *Gerrymandering in Furtherance of Political Dynasties*

Another issue related to gerrymandering that the Constitution guards against is that of political dynasties. Political dynasties continue to thrive and perpetuate because of a lack of legislation. Philippine politics has long been considered a family affair. The political system is pervaded by dynastic politics—the phenomenon that concentrates political power and public resources within the control of a few families whose members alternately hold elective offices.⁷⁵

The House of Representatives is not exempted from this phenomenon. An empirical study conducted in the 15th Congress showed that representatives from political dynasties accounted for 70% of all district representatives in Congress.⁷⁶

Despite several bills introduced in the last 10 years,⁷⁷ and more than 30 years since the anti-political dynasty provision was included in the 1987 Constitution, no anti-political dynasty bill has ever reached third reading in the House of Representatives.⁷⁸ In fact, the situation can be said to have worsened as an unprecedented number of political dynasties sit in the 18th

⁷³ *Id.* at 147.

⁷⁴ Llanto, *supra* note 67.

⁷⁵ Ma. Carla Mapalo & Mark Leo Bejemino, *Beyond the Constitutional Mandate: Legal Issues and Policy Considerations of Anti-Political Dynasty*, 89 PHIL. L.J. 52, 53 (2015).

⁷⁶ Ronald U. Mendoza, Edsel L. Beja, Jr., Victor Soriano Venida & David Barua Yap II, *An Empirical Analysis of Political Dynasties in the 15th Philippine Congress*, 33 PHIL. POL. SCIENCE J. 132 (2012), available at https://www.researchgate.net/publication/228276641_An_Empirical_Analysis_of_Political_Dynasties_in_the_15th_Philippine_Congress

⁷⁷ Mapalo & Behemino, *supra* note 75, at 57-64.

⁷⁸ Dennis Blanco, *Recent Legislative Attempts to Limit or Ban Political Dynasties in the Senate: An Analysis of the Anti-Dynastic Provisions*, HALALAN UP WEBSITE, June 18, 2019, at <https://halalan.up.edu.ph/recent-legislative-attempts-to-limit-or-ban-political-dynasties-in-the-senate-an-analysis-of-the-anti-dynastic-provisions>; See also Charissa Luci-Atienza, *No chance for anti-political dynasty bill to prosper this 17th Congress*, PHILIPPINE DAILY INQUIRER, Oct. 29, 2018, available at <https://news.mb.com.ph/2018/10/29/no-chance-for-anti-political-dynasty-bill-to-prosper-this-17th-congress>. During the last Congress, the anti-political dynasty bill did not even pass on the committee-level.

Congress, with at least 20 political families—or at least 50 representatives in total—in the House of Representatives. Among the relations present are those between husbands and wives, parents and children, siblings and cousins, uncles and aunts, and even in-laws.⁷⁹

The phenomenon of political dynasties is worth looking into vis-à-vis reapportionments. A brief examination of reapportionment laws would yield the conclusion that these reapportionments had been done in order to favor certain family members—a situation which necessarily perpetuates political dynasties.

During the 14th Congress, for example, then Representative Nerissa Corazon Soon-Ruiz filed House Bill 5007 which aimed to separate the City of Lapu-Lapu from the 6th District of Cebu, thereby creating a lone legislative district of Lapu-Lapu City.⁸⁰ The bill was enacted into law through Republic Act No. 9727 on October 22, 2009.⁸¹ However, her husband, Joselito Ruiz, failed in his 2010 electoral bid for the newly-created congressional post, as he lost to Arturo Radaza.⁸²

Also during the 14th Congress, then Representative Liwayway Vinzons-Chato filed House Bill 4163, reapportioning the province of Camarines Norte into two legislative districts.⁸³ The bill was enacted through Republic Act No. 9725 on October 22, 2009.⁸⁴ Her son, Wilfredo Chato, Jr., also ran for the newly-created congressional district in the 2010 elections, but lost to Renato Unico, Jr.⁸⁵

Other examples during the 14th Congress involved the province of Agusan del Sur and the district of Cavite. In the former, Representative Rodolfo Plaza was one of the co-authors of House Bill 3224 which aimed to

⁷⁹ See Lira Dalangin-Fernandez, *Political families abound in Congress*, GMA NEWS, July 26, 2019, available at <https://www.msn.com/en-ph/news/national/political-families-abound-in-congress/ar-AAETMim>; Dave Abuel, *Political clans take House seats in tandems and trios*, ABS-CBN NEWS, July 30, 2019, at <https://news.abs-cbn.com/spotlight/07/30/19/political-clans-take-house-seats-in-tandems-and-trios>; Daniel Llanto, *Unprecedented number of political families in 18th Congress*, FILAM STAR, Aug. 2, 2019, at <https://filamstar.com/unprecedented-number-of-political-families-in-18th-congress/>

⁸⁰ H. No. 05007, 14th Cong., 2nd Sess. (2008).

⁸¹ Rep. Act No. 9727 (2009).

⁸² Pachico A. Seares, *Redistricting Cebu City: at least 2 more seats, if Raul, Bebot agree*, SUNSTAR CEBU, June 4, 2009, available at <https://www.pressreader.com/philippines/sunstar-cebu/20190604/281608126924466>

⁸³ H. No. 04163, 14th Cong., 1st Sess. (2008).

⁸⁴ Rep. Act No. 9725 (2009).

⁸⁵ Tiongson-Mayrina, *supra* note 55.

reapportion the then lone legislative district of the province of Agusan del Sur into two legislative districts.⁸⁶ This was enacted as Republic Act No. 9508 on October 10, 2008. During the 2010 elections, Representative Plaza's two sisters, Valentina Plaza-Cornelio and Evelyn Plaza-Mellana, ran as district representatives for the 1st and 2nd district⁸⁷ and won. In the district of Cavite, Representative Abaya was one of the co-authors of a House Bill which aimed to reapportion the district of Cavite from three to seven districts. This was enacted on October 22, 2009 through Republic Act No. 9727. In the 2010 elections, Representative Abaya's father, former Representative Plaridel Abaya, ran for one of the newly-created districts, but lost.⁸⁸

For the 18th Congress, the case of Isabela is perhaps the best example of gerrymandering in furtherance of a political dynasty. The province was recently reapportioned from four to six legislative districts under Republic Act No. 11080, which was enacted on January 16, 2019. It was based on House Bill 7778, which was passed during the 17th Congress and whose primary authors included then Isabela 3rd District Representative Napoleon Dy, who was already serving his last term.⁸⁹ For the 18th Congress, three Dys ran and subsequently won seats in the House of Representatives, including the newly-created districts.⁹⁰ Representative Napoleon Dy was replaced by his son, Ian Paul Dy, as representative of the 3rd District. The new districts—districts 5 and 6—were represented by Representative Napoleon Dy's nephews, Faustino Michael Dy and Faustino "Inno" Dy V, for the 5th District and 6th District, respectively.

⁸⁶ H. No. 03224, 14th Cong., 1st Sess. (2008).

⁸⁷ Tiongson-Mayrina, *supra* note 55.

⁸⁸ Sammy Martin, *Rep. Abaya loses in Cavite, faces multiple charges*, THE MANILA TIMES, May 13, 2010, available at <https://www.pressreader.com/philippines/manila-times/20100513/282394100668595>

⁸⁹ *House approves bill reapportioning Isabela into six districts*, HOUSE OF REPRESENTATIVES PRESS AND PUBLIC AFFAIRS BUREAU, July 8, 2018, at <http://www.congress.gov.ph/press/details.php?pressid=10748>; Malou Mangahas, Justin Oliver Fiestada & Crystal Joy de la Rosa, *Unpacking federalism: Who will rule? Send in the clans*, ABS CBN NEWS, July 18, 2018, at <https://news.abs-cbn.com/focus/07/18/18/unpacking-federalism-who-will-rule-send-in-the-clans>

⁹⁰ Michael Bueza, *New districts, old names: Battles for House seats created under Duterte*, RAPPLER, May 10, 2019, at <https://www.rappler.com/newsbreak/iq/230112-battles-new-districts-house-representatives>

II. THE GOVERNING RULES ON LEGISLATIVE APPORTIONMENT

In order to lay down a framework of discussion for the succeeding sections, it is necessary to first discuss the contemporary rules on legislative apportionments as interpreted by the Supreme Court in a number of cases.

A. Provinces

Since 1987, there has only been one case pertaining to a legislative reapportionment of a province: *Aquino v. COMELEC*.⁹¹ The *Aquino* case is related to the earlier discussed case of gerrymandering committed by Representative Villafuerte of Camarines Sur.

The controversy in *Aquino* started when Camarines Sur 2nd District Representative Luis Villafuerte, Jr. filed House Bill 4264 in 2009 during the 14th Congress.⁹² The bill sought to reapportion the province of Camarines Sur, whose population then stood at 1,693,821, from four districts into five by reallocating five municipalities from the 1st District and two municipalities from the 2nd District in order to form the new 2nd District composed of seven municipalities.⁹³ As a result of removing five municipalities from the 1st District, the population was reduced from 417,304 into 176,383.⁹⁴ It is important to note that during this time—and perhaps most probably due to the lack of Supreme Court precedent regarding provincial reapportionment—the practice of the legislators, as they may have interpreted the provision, was that the population must not go beyond the 250,000 requirement, similar to the creation of a new legislative district of cities.⁹⁵ As earlier mentioned, the case should also be read in relation to its political underpinnings; the filing could be seen as a form of retaliation by Senator Aquino in relation to another case filed against a law creating a lone district of Malolos City which was held to be unconstitutional.⁹⁶ Hence, the reduction to 176,383 in this case became a constitutional issue. Be that as it may, the Supreme Court ruled that the 250,000 population requirement only applies to cities, and that the Constitution actually prescribes no rule as to the minimum population in a district.⁹⁷

⁹¹ *Aquino*, 617 SCRA 623.

⁹² *Id.* at 633.

⁹³ *Id.* at 632.

⁹⁴ *Id.*

⁹⁵ *Id.* at 653-654 (Carpio, J., *dissenting*).

⁹⁶ *Aldaba*, 615 SCRA 564.

⁹⁷ *Aquino*, 617 SCRA 623, at 642.

After *Aquino*, there has not been any redistricting case argued before the Supreme Court; hence, it remains to be good law. However, because of the online tirades against its implications (particularly the dissent of Justice Carpio⁹⁸ saying the decision would result in an unlimited number of representatives in provinces), a closer inspection and clarification must be made.

In *Aquino*, although the pronouncement was not expressly worded, it was clear that while the Court removed the population requirement on the per-district basis, it retained the computation of the allowed entitlement of the provinces which is for every 250,000. In summarizing the main opinion, the exact words of Justice Peralta were:

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.⁹⁹

Clearly, while the majority said that a population of 250,000 is not a condition *sine qua non* for a new legislative district, the entitlement of the province as a whole was still governed by the 250,000 population rule. The Court said the province of Camarines Sur was in fact entitled to six districts given that it has a population of 1,693,821.¹⁰⁰ Hence, while the uniform and progressive ratio was still violated on a district-level, the ratio on a province-level was not, tempering the fears posited by Justice Carpio.

B. Cities

Before discussing the rule on apportionment for cities, it must be clarified that the creation of legislative districts is different from the creation, division, merger, abolition, or substantial alteration of boundaries of the city. This is also related to the confusion as to the proper definition of gerrymandering. The Court was able to clear this out in the case of *Bagabuyo v. COMELEC*.¹⁰¹

⁹⁸ *Id.* at 652-671 (Carpio, J., *dissenting*).

⁹⁹ *Id.* at 649.

¹⁰⁰ 1,693,821 divided by 250,000 yields 6.775284.

¹⁰¹ *Bagabuyo*, 573 SCRA 290.

1. Legislative Apportionments in Cities as Opposed to Creation, Division, Merger, Abolition, or Substantial Alteration of Boundaries of Cities

In *Bagabuyo*, Cagayan de Oro district representative Constantino Jaraula filed House Bill No. 5859 which aimed to reapportion the city into two legislative districts.¹⁰² The bill eventually became Republic Act No. 9371. The law was assailed on the following grounds: *first*, that a plebiscite must first be conducted; and *second*, that the distribution of the legislative districts is unequal, resulting in the violation of the principle of equality of representation.¹⁰³ In dismissing the petition, the Court held that a plebiscite is only required for the creation, division, merger, abolition, or substantial alteration of boundaries of a city, and not for the creation of additional districts. These separate processes, aside from both requiring a legislative act, have nothing in common with each other.¹⁰⁴ The Court also said that the basis for districting is the number of inhabitants of the city, and not the number of registered voters.¹⁰⁵ *Bagabuyo* is also relevant for providing a historical basis¹⁰⁶ and giving the proper definition¹⁰⁷ of legislative apportionments.

2. Rules on Apportionment for Cities in Provinces

As regards the rule on reapportionment with respect to cities, the Constitution provides for a clearer guide: a city with a population of at least 250,000 “shall have at least one representative.” However, it is also important to differentiate cities located in the provinces (regardless of classification) with cities that are located in Metro Manila, in light of the aforementioned *Aquino* ruling. For cities located within provinces, any additional district must take into consideration the general entitlement of the province.

To illustrate, assume that in year X, Province A has a total population of 700,000 with three legislative districts composed of a combination of component cities and municipalities, with the first district having only City A.

Province A (Year X)			
	Component City	Municipality	Population

¹⁰² *Id.* at 294.

¹⁰³ *Id.* at 309.

¹⁰⁴ *Id.* at 301.

¹⁰⁵ *Id.* at 309.

¹⁰⁶ *Id.* at 302-304.

¹⁰⁷ *Id.* at 298.

1 st District	City A		250,000
2 nd District	City B	Municipality A, B, C	250,000
3 rd District		Municipality D, E, F	200,000
			700,000

Suppose we further assume that the total population of City A increased to 500,000 in year Y while the population of the other cities and municipalities remained the same for a total provincial population of 950,000, thereby entitling only City A to an additional district, while the total allowable districts for the entire province remain at three.

Should the district representatives decide to give an additional district to City A, raising the total to two districts, it must merge and reapportion the two other districts into one because the total districts for the entire province can only be three given that the population is only 950,000.

Province A (Year Y)			
	Component City	Municipality	Population
1 st District	City A (barrio 1, barrio 2)		250,000
2 nd District	City A (barrio 3, barrio 4)		250,000
3 rd District	City B	Municipality A, B, C, D, E, F	450,000
			950,000

3. Rules on Apportionment for Cities in Metro Manila

For cities in Metro Manila, on the other hand, *Tobias v. COMELEC* and *Mariano v. COMELEC* govern since both held that the creation of legislative districts may be done through a cityhood law.¹⁰⁸ *Mariano* further held that legislative districts may be increased with no other basis other than

¹⁰⁸ *Tobias*, 239 SCRA 106, 112.

the requirement of an initial 250,000 population under Article VI of the Constitution and Section 3 of its Ordinance.¹⁰⁹

In *Tobias v. Abalos*,¹¹⁰ petitioners assailed Republic Act No. 7675 which converted the Municipality of Mandaluyong into a highly urbanized city (HUC). Specifically, the petitioners assailed Section 49 of the law which created two separate legislative districts for the City of Mandaluyong and the municipality of San Juan, which had not yet attained the 250,000 population requirement.¹¹¹ In dismissing the petition, the Court held the population of Mandaluyong has already exceeded the 250,000 requirement and the creation of a separate legislative district is a “natural and logical consequence” of its conversion into a highly urbanized city.¹¹²

In *Mariano v. COMELEC*,¹¹³ petitioners assailed the constitutionality of Republic Act No. 7854 which converted Makati from a municipality into an HUC on the grounds that the reapportionment cannot be made by a special law and that Makati’s population was only 450,000.¹¹⁴ The Court, in dismissing the petition, held that reapportionment may be made through special laws such as the charter of a new city (since the Constitution so provides), and that to hold otherwise would create an “inequitable situation” wherein a new city will be denied legislative representation for an indeterminate period of time.¹¹⁵ With respect to the second argument, the Court held:

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.¹¹⁶

¹⁰⁹ *Mariano*, 242 SCRA 211, 223.

¹¹⁰ *Tobias*, 239 SCRA 106, 109.

¹¹¹ *Id.* at 111.

¹¹² *Id.*

¹¹³ *Mariano*, 242 SCRA 211, 215.

¹¹⁴ *Id.* at 222.

¹¹⁵ *Id.* at 223.

¹¹⁶ *Id.*

Thus, the Court seemed to have interpreted Section 3 of the Ordinance to mean that the 250,000 population requirement only applies to the initial district, and any excess to the 250,000, regardless if such excess is 200,000 as in the case, or as small as 1, entitles the city to an additional district.

With the foregoing, it is worth remembering that the doctrine in *Tobias*, as cited in *Mariano*, insofar as the creation of legislative districts by operation of law is concerned, should be tempered by the *Aquino* ruling for the creation of cities in provinces. This means that for cities within provinces, including independent component cities (ICCs) and HUCs, the additional districts formed by virtue of a city charter should take into consideration the allotment of the province.

It must also be emphasized that the rationale¹¹⁷ used in *Mariano*—i.e. that preventing the creation of districts in cityhood bills would result in an “inequitable situation” where the newly-converted cities would have no representation for an indeterminate period of time—is wrong. *First*, it does not apply to cities within provinces because these cities are still represented by the representative of the district that the component city remains to be a part of. *Second*, only cities with more than 250,000 population are allowed to have its own district, and there can be no fear of lack of representation for a single city when there is no entitlement to begin with. In the case of Navotas-Malabon, for example, when Navotas was converted into a city, it only had a population of 245,344. In other words, it should not have been able to demand for its own representation when it was not yet entitled to one in the first place. *Third*, in relation to the second point, there is always a remedy for representation: append the new city which failed to meet the population requirement to other municipalities or cities it is adjacent to, as in the case of Pateros-Taguig district. Hence, for the case of Navotas, it should have remained appended to Malabon.

In conclusion, *Tobias* should be interpreted to only mean that a newly-created city which meets the 250,000 population requirement is entitled to provide for the creation of a new district in its charter. What happens to the existing municipality or the city to which it is appended should depend on whether the said municipality or city has a population of 250,000. If it is located in Metro Manila and has a population of more than 250,000, it should be given its own district. If it did not reach the 250,000 population requirement, it should remain appended to the newly-created city such as what *should* have happened in the case of San Juan. If it is not within Metro Manila, then aside from having to meet the 250,000 population requirement, it should

¹¹⁷ *Id.* at 23.

still always consider the total number of districts of the province based on *Aquino*.

*Aldaba v. COMELEC*¹¹⁸ confirms the absoluteness of the 250,000 population requirement for the first district of any city. In *Aldaba*,¹¹⁹ petitioners assailed the constitutionality of Republic Act No. 9591, which created a separate district for the component city of Malolos, for violating the 250,000 population requirement under Section 5, Paragraph 3, Article VI of Constitution. At the time House Bill No. 3693 and Senate Bill No. 1986 were filed, the population of Malolos was only 223,069, but the aforementioned bills relied on an undated certification by a Regional Director of the National Statistics Office (NSO) that the projected population by election year 2010 would be at 254,030, given a population growth rate of 3.78%.¹²⁰ The Supreme Court struck down the law because only the NSO Administrator or his designated officer had the authority to issue such certification, which must also be declared as official by the National Statistics Coordination Board.¹²¹ Furthermore, even assuming the requisites were complied with, the assumed population rate of 3.78% would still fail to meet the 250,000 population requirement by 2010.¹²² More relevant to the topic, the Supreme Court cited Section 3 of the Ordinance and held:

A city that has attained a population of 250,000 is entitled to a legislative district only in the “immediately following election.” In short, *a city must first attain the 250,000 population*, and thereafter, in the immediately following election, such city shall have a district representative. There is no showing in the present case that the City of Malolos has attained or will attain a population of 250,000, whether actual or projected, before the 10 May 2010 elections.¹²³

4. *Curious Cases of Navotas and San Juan*

In the previous discussion of *Tobias*, petitioners questioned the creation of the legislative district of San Juan on the ground that it had not met the population requirement.¹²⁴ The Court dismissed it outright, invoking the presumption of constitutionality of the acts of Congress.¹²⁵ The fact that the Court did not even bother to look upon the propriety of the allegation is

¹¹⁸ *Aldaba*, 611 SCRA 137.

¹¹⁹ *Id.* at 141.

¹²⁰ *Id.*

¹²¹ *Id.* at 143.

¹²² *Id.* at 145.

¹²³ *Id.* at 147. (Emphasis supplied.)

¹²⁴ *Tobias*, 239 SCRA at 111.

¹²⁵ *Id.*

disturbing, especially given that San Juan only had a population of 124,187 in 1995. This violates not only the clear wording of the Constitution, but also the intent of the framers, as will be further explained.

Of course, the case of the municipality of San Juan should be treated as an aberration in the absence of a ruling on the merits by the Supreme Court. However, because the Court chose to turn a blind eye to the peculiarities of the situation, San Juan has enjoyed having its own district representative since 1995. What is more alarming is that based on the latest census conducted in 2015, the population of San Juan has even decreased to 122,180. Not only was the fact that a municipality had its own district already questionable, but the blatant violation of the constitutional requirement still continues to this day.

The Supreme Court has even declared there to be no gerrymandering involved in the creation of the new district.¹²⁶ This is patently wrong. As discussed, gerrymandering can occur through a form of compromise between legislators in such a way that each would be given their own “turf” for purposes of avoiding having to clash with each other in an election. Had the strict constitutional provision¹²⁷ as to the creation of districts in cities been followed, San Juan would not have been granted its own district and today, would be merely appended to Mandaluyong. Representative Zamora would have had to face the politicians of Mandaluyong every three years. Contrary to the decision of the Supreme Court, a decrease in “land area” or constituency does not really affect the gerrymanderer whose concern is retaining power as a member of the House of Representatives. Since 1994, Representative Zamora has served two terms as district representative, and this seat has enabled him to create his own dynasty through his son, who himself has entered politics amidst the current political landscape and has in fact climbed his way up to becoming mayor.

The case of San Juan is a stark example of how the Supreme Court itself has not only contributed to the injustice of malapportionment of congressional districts, but also helped in perpetuating gerrymandering as a violation of the Constitution. This is also the reason why the Filipino people must be ever vigilant with respect to apportionment laws. Likewise, it is noted that the City of Navotas which, as earlier mentioned, partook of gerrymandering, had also violated the constitutional provision because, even today, it has yet to reach the 250,000 requirement under the Constitution. More notable is the fact that the original House Bill filed stated in Section 62

¹²⁶ *Id.* at 112-113.

¹²⁷ CONST. art. VI, § 5(3).

thereof that the City of Navotas “shall continue to be part of the Malabon-Navotas District.”¹²⁸

5. Concluding the Rules on Cities

In conclusion, for component cities, ICCs or HUCs, the 250,000 population rule is strictly applied as to the creation of the first district. In effect, *Aldaba* affirms the proposition earlier advanced that the case of San Juan and Navotas are unfortunate aberrations which resulted in a system that allows the exercise of discretion as to when a legislative apportionment bill is filed—a process that is purely political—and a Supreme Court that gives its blessing to unconstitutional practices. For additional districts, *Mariano*, as affirmed and interpreted by *Aquino*, should be followed, which held that there is no population requirement, notwithstanding the dissent of Justice Carpio and Justice Carpio-Morales.

III. HOUSE BILLS IN CONGRESS

In this section, we will look at the present bills in the House of Representatives to see how the rule is applied in reality, as opposed to how it is interpreted by the Supreme Court. This section will also look into past House bills and analyze the relevant factors in the legislative process.

¹²⁸ H. No. 5500, 13th Cong., 2nd Sess., § 62 (2006). Charter of the City of Navotas.

A. Bills in the 18th Congress

House Bill	Purpose	Status	Comment
House Bill No. 199: An Act Providing for the Reapportionment of the Province of Bataan into Three Legislative Districts	Reapportionment of the Province of Bataan with a population of 760,650 (2015 census) from two legislative districts, into three legislative districts.	Pending with the Committee on Local Government. The bill was not a re-filed bill.	<p>The explanatory note of the bill states that the 250,000 population for the creation of legislative districts is not only based on 1986 apportionment, but also on the interpretation of Section 5, Article VI of the 1987 Constitution.</p> <p>In the proposed apportionment, the 2nd District only has 239,998. This bill is a reflection of <i>Aquino</i>.</p>

<p>House Bill No. 336: An Act Redistricting the Second District of Rizal into Three Legislative Districts</p>	<p>Reapportionment of the Province of Rizal with a population of 2,107,841 (2015 census; excluding Antipolo City) from two legislative districts to four legislative districts.</p>	<p>Substituted by House Bill No. 6222</p>	<p>Two districts of the bill, specifically the 3rd and 4th Districts, are each composed of a heavily populated municipality.</p> <p>While it is questionable on its face, it remains valid in the absence of any Supreme Court case ruling on its merits.</p>
<p>House Bill No. 537: An Act Reapportioning the Lone District and the Sangguniang Panlungsod Seats of the City of Bacolod</p>	<p>Reapportionment of the lone district of Bacolod City with a population of 561,875 (2015 census) into two legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was refiled from the 16th and 17th Congress.</p>	<p>The explanatory note interpreted the Constitution to mean that there must be a minimum population of 250,000 <i>per</i> legislative district. Bacolod City has 561,875 based on the 2015 census.</p>

<p>House Bill No. 566: An Act Creating the First and Second Legislative District in the City of Bacolod by Apportioning the Lone Legislative District of Bacolod City</p>	<p>Reapportionment of the lone district of Bacolod City with a population of 561,875 (2015 census) into two legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was refiled from the 16th and 17th Congress.</p>	<p>The explanatory note interpreted the provision in the Constitution to mean that the ratio for every representative should be 250,000 inhabitants.</p>
<p>House Bill No. 1618: An Act Reapportioning the Current Four (4) Legislative Districts of the Province of Quezon City into Seven (7) Legislative Districts</p>	<p>Reapportionment of the Province of Quezon with a population of 2,123,100 (including Lucena City) from four legislative districts to seven legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was refiled from the 17th Congress.</p>	

<p>House Bill No. 3074: An Act Reapportioning the Lone Legislative District and Sangguniang Panlungsod of the City of Iloilo</p>	<p>Reapportionment of the lone district of Iloilo City with a population of 447,992 (2015 census) into two legislative districts.</p>	<p>Pending with the Committee on Local Government. A similar version has been filed since the 14th Congress.</p>	<p>The explanatory note seemed to indicate that the representative was aware that her proposal was unusual since the phrase employed was “although the City of Iloilo only has a population of 447,992 [...] it can still be legally granted an additional district” and cited <i>Mariano</i> and <i>Aquino</i> as justification.</p> <p>The representative was correct in relying on <i>Mariano</i> as affirmed by <i>Aquino</i>.</p>
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<p>House Bill No. 4979: An Act Reapportioning the Second District of Zamboanga City into Two Legislative Districts</p>	<p>Reapportionment of Zamboanga City with a population of 861,799 (2015 census) from two legislative districts to three legislative districts by subdividing the second legislative district into two.</p>	<p>Pending with the Committee on Local Government. The bill was not a re-filed bill.</p>	<p>Instead of reapportioning the entire city, the representative wants to reapportion only the second district with only 459,205 population as opposed to the first district with 602,609. The natural consequence is that one district would have a population of less than 250,000.</p> <p>The bill is valid under <i>Mariano</i> as affirmed in <i>Aquino</i>.</p>
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<p>House Bill No. 5560: An Act Reapportioning the First Legislative District and Sangguniang Panlungsod Seats of the City of Caloocan</p>	<p>Reapportionment of Caloocan City with a population of 1,583,978 (2015 census) from two legislative districts to three legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was refiled from the 17th Congress.</p>	<p>At present, Caloocan City has only two district representatives resulting in a representative to population ratio of 1:750,000. Even if this bill were enacted, it would still result in a ratio of 1:500,000—more than two times the initial benchmark of the 1987 Constitution. Caloocan is the most under-represented district and the fact that this bill was refiled is telling about the view of Congress as to malapportionment.</p>
<p>House Bill No. 5647: An Act Reapportioning the Province of Zamboanga del Sur into Three Legislative Districts</p>	<p>Reapportionment of the Province of Zamboanga del Sur with a population of 1,010,674 (2015 census) from two legislative districts to three legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was not a re-filed bill.</p>	

<p>House Bill No. 5679: An Act Providing for the Reapportionment of the Province of Benguet into Two Legislative Districts</p>	<p>Reapportionment of the Province of Benguet with a population of 446,224 (2015 census) from one legislative district into two legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was not a re-filed bill.</p>	<p>The explanatory note does not cite any basis for the proposed reapportionment of a province with less than 500,000 population. It likewise does not cite the province's current population.</p> <p>This law is invalid even under <i>Aquino</i> which, as earlier discussed, applied the 250,000 threshold for the additional entitlement of any province, even though it allowed the districts within it to have less than 250,000 population each.</p>
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<p>House Bill No. 5774: An Act Separating the City of General Santos from the First Legislative District of the Province of South Cotabato to Constitute the Lone Legislative District of General Santos City, Amending for The Purpose Republic Act No. 11243, Entitled “An Act Reapportioning The First Legislative District of The Province of South Cotabato Thereby Creating the Lone Legislative District of General Santos City”</p>	<p>Creation of a lone legislative district of General Santos City with a population of 594,446 (2015 census), which used to be a part of the first legislative district of South Cotabato.</p>	<p>Pending with the Committee on Local Government. The bill was not a re-filed bill.</p>	<p>The separation of General Santos City from the first legislative district of South Cotabato is inconsequential since the first district has a present population of 856,536. Removing the population of General Santos City would still result in the combined population for South Cotabato of 915,289.</p> <p>This bill is valid under <i>Mariano</i> as affirmed by <i>Aquino</i>.</p>
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<p>House Bill No. 5866: An Act Reapportioning the Province of Bulacan into Seven Regular Districts</p>	<p>Reapportionment of the Province of Bulacan with a population of 3,292,071 (2015 census, including San Jose del Monte) from five legislative districts to seven legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was not a re-filed bill. However, a bill proposing for the creation of two legislative districts for San Jose del Monte (which presently has its own legislative district) was filed in the 16th Congress.</p>	
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<p>House Bill No. 5918: An Act Separating the City of San Pablo from the Third Legislative District of the Province of Laguna to Constitute the Lone Legislative District of the City of San Pablo</p>	<p>Creation of a lone legislative district of San Pablo City with a population of 266,068 (2015 census), which used to be a part of the third legislative district of Laguna.</p>	<p>Pending with the Committee on Local Government. The bill was not a re-filed bill.</p>	<p>The separation of San Pablo City from the third legislative district of Laguna is inconsequential since the third district has a present population of 550,593. Additionally, removing the population of San Pablo City would still result in a population of 284,525 for the third legislative district.</p> <p>This bill is valid under <i>Mariano</i> as affirmed by <i>Aquino</i>.</p>
<p>House Bill No. 5961: An Act Reapportioning the First Legislative District of the City of Caloocan</p>	<p>Reapportionment of Caloocan City with a population of 1,583,978 (2015 census) from two legislative districts to three legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was refiled from the 17th Congress.</p>	<p>The same as House Bill No. 5560. This might have been inadvertently re-filed.</p>

<p>House Bill No. 6176: An Act Creating an Additional Legislative District in the Province of Negros Oriental to be Known as the Fourth (4th) Legislative District</p>	<p>Reapportionment of the Province of Negros Oriental with a population of 1,354,995 (2015 census) from three legislative districts to four legislative districts.</p>	<p>Pending with the Committee on Local Government. The bill was not a re-filed bill.</p>	
<p>House Bill No. 6222: An Act Reapportioning the Second Legislative District of the Province of Rizal Into Three (3) Legislative Districts</p>	<p>Reapportionment of the Province of Rizal with a population of 2,107,841 (2015 census, excluding Antipolo City) from two legislative districts, to four legislative districts.</p>	<p>Substituted House Bill No. 336.</p>	<p>Two districts of the bill, specifically the 3rd and 4th Districts, are each composed of heavily populated municipalities. While unprecedented and questionable on its face, it remains valid in the absence of any Supreme Court case ruling on its merits.</p>

<p>House Bill No. 3743: An Act Providing for a General Apportionment of the Legislative Districts of the Philippines Pursuant to the 2017 Census</p>	<p>A nationwide reapportionment on the basis of 400,000 per district without prejudice to already-existing districts, with the exception that each province or each city with a population of at least 250,000 shall automatically have one representative.</p>	<p>Pending with the Committee on Local Government. The bill has been refiled since the 15th Congress.</p>	<p>In the explanatory note, the representative pointed out that the Congress, since 1987, has failed to comply with the mandate for a general reapportionment by the Constitution. Instead, as he argued, legislators resorted to separate laws which are “usually influenced by political motivations.”</p>
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Based on the examination of the present House bills, the following observations must be pointed out. *First*, the system in the House of Representatives, insofar as reapportionment is concerned, is one in the nature of every-representative-for-himself. As a consequence, if the district representative chooses not to file a bill for reapportionment, the number of districts will remain the same despite a growing population number. *Second*, all reapportionment bills filed, with the exception of one,¹²⁹ is in the nature of piecemeal legislation—allowed by the Supreme Court—as opposed to a general apportionment law. *Third*, despite the Supreme Court rulings reflecting contemporary interpretation, there are some legislators who still believe the correct interpretation should be an absolute 250,000 threshold for all additional districts in provinces and cities, resulting in different standards being applied in different bills and the number of additional districts being asked for by each bill. *Fourth*, all House bills seek to increase, not decrease, existing legislative districts. This shows there is underrepresentation in the

¹²⁹ H. No. 03743 calls for a general reapportionment law; *See* H. No. 03743, 18th Cong., 1st Sess. (2019).

House of Representatives as a result of legislative inaction and lack of a general reapportionment law. *Fifth*, not all reapportionment bills are enacted into law despite the fact that the provinces or cities subject of the bills are already constitutionally entitled to additional districts.

Notable also is that, as of writing, only 16 district representatives have filed for an increase in representation in the 18th Congress, despite the fact that the Constitution commands Congress to enact apportionments within three years after every census,¹³⁰ conducted on an average of every five years, and in consideration of the ever-increasing population of every province and city in the Philippines. Surely, the 16 districts covered by the 18 bills are not the only localities with increased population for the past three years.

A closer inspection of the bills would expose the absurd consequence of a piecemeal system. Compare, for example, House Bill No. 5961 seeking to reapportion the legislative districts of Caloocan, with House Bill No. 3074 seeking to reapportion the legislative districts of Iloilo. In the former, the representative is satisfied with having three district representatives for a population of around 1,500,000.¹³¹ In the latter, the representative is asking for an additional district representative for a total of two, despite the population of the city being only 447,992.¹³² *First*, there is obviously a disproportion in the number of constituents represented by each district representative, even assuming the bills were granted. For Caloocan, it is 1:750,000 at present, and 1:500,000 if the bill is enacted into law. For Iloilo, it is 1:447,992 at present, and 1:223,996 if the bill is enacted into law. This was, however, allowed by the Supreme Court in *Mariano* as affirmed by *Aquino*.¹³³ *Second*, there is clearly no consensus among legislators as to the ideal number of representatives in a district because despite there being no limit in accordance with *Mariano*,¹³⁴ the representative of Caloocan still chose to have a 1:500,000 ratio as opposed to the representative of Iloilo who wanted a less than 1:250,000 ratio. Again, this is a result of *Mariano* as affirmed by *Aquino*, which removes the requirement of population for additional districts in cities.¹³⁵ *Third*, even if they are entitled under the Constitution, both bills had to be re-filed because, for unknown reasons, it was not passed in the previous Congress despite there being apportionment bills that were immediately enacted into law in the past congresses.

¹³⁰ CONST. art. VI, § 5(4).

¹³¹ H. No. 05961, 18th Cong., 1st Sess. (2019).

¹³² H. No. 03074, 18th Cong., 1st Sess. (2019).

¹³³ *Aquino*, 617 SCRA at 642.

¹³⁴ *Mariano v. COMELEC*, 242 SCRA at 223.

¹³⁵ *Aquino*, 617 SCRA at 642.

The necessary conclusion from the three points mentioned is that the present system in the House of Representatives results in a problematic constituent to representative ratio, with these representatives seemingly acquiescing to this disproportionate set-up and foregoing any of their Constitutional entitlements. It has to be emphasized that this disproportionate set-up adversely affects not only the representatives themselves, but also the provinces or cities they represent. It is the people who will stand to gain from the increase in representation as these representatives have themselves noted in the explanatory notes of their piecemeal reapportionment bills.

Notable also from the list is House Bill No. 3743 which seeks to enact a general apportionment law pursuant to the provisions of the Constitution.¹³⁶ Representative Rufus Rodriguez, the author of the bill, points out that Congress has a mandate to conduct a general reapportionment within three years after every census. This theory is affirmed by Bernas who, describing the Constitutional provisions, said “this periodic reapportionment commanded by the Constitution must be done nationwide and not piecemeal, as is happening now. Piecemeal reapportionment affecting only one province will necessarily result in unconstitutional disproportion with provinces whose districts are not readjusted.”¹³⁷ Unfortunately, for the past four congresses, the proposed general reapportionment bill has never seen the light of the plenary hall.¹³⁸

The situation Bernas is describing is exactly what we see today by just looking at the bills filed in the 18th Congress. An increase in legislative districts in one province due to its increasing population, without increasing the other provinces or cities whose populations are also increasing, will ultimately result in disproportion.

The disproportion is attributable to no one but the members of the House of Representatives themselves, who have chosen not to reapportion their own districts for whatever reason, and have allowed the propagation of piecemeal legislations at the expense of the people. As pointed out by Representative Rodriguez in the explanatory note, and as demonstrated in the previous sections, piecemeal legislations are usually influenced by political motivations.¹³⁹

¹³⁶ H. No. 03743, 18th Cong., 1st Sess. (2019).

¹³⁷ Jesus F. Llanto, *RP pop'n calls for 350 congress seats*, ABS CBN NEWS, Aug. 31, 2019, at <https://news.abs-cbn.com/nation/08/31/09/rp-popn-calls-350-congress-seats>

¹³⁸ H. No. 03007, 15th Cong.; H. No. 03930, 16th Cong.; and H. No. 07643, 17th Cong. remained pending with the Committee on Local Government until the adjournment of every Congress it was filed in.

¹³⁹ H. No. 03743, 18th Cong. (2019). Explanatory Note.

B. What Stops the Bills from Getting Passed?

With the discussion so far, one might ask the question: what is stopping this bill, and other bills of a similar nature, from getting passed? The short answer: there *should* be none.

Upon an examination of the bills filed from the 14th Congress (July 2007) up until the 17th Congress (June 2019), there have been 73 bills filed (some filed once, with others having been re-filed since the 13th Congress) in the House of Representatives covering 44 provinces or cities, all with the common purpose of creating additional legislative districts. Thirty-eight of these House bills,¹⁴⁰ covering 23 provinces¹⁴¹ and cities,¹⁴² have been turned into law. Out of the remaining 34 House bills¹⁴³ covering 21 provinces¹⁴⁴ and cities,¹⁴⁵ 33 House bills have either been unanimously approved by the House of Representatives, only to expire in the Senate, or have remained in the

¹⁴⁰ H. No. 04254, 14th Cong.; H. No. 04163, 14th Cong.; H. No. 04264, 14th Cong.; H. No. 040353, 14th Cong.; H. No. 05273, 14th Cong.; H. No. 05761, 14th Cong.; H. No. 03224, 14th Cong.; H. No. 05007, 14th Cong.; H. No. 05608, 15th Cong.; H. No. 04759, 15th Cong.; H. No. 04094, 15th Cong.; H. No. 05236, 15th Cong.; H. No. 04111, 15th Cong.; H. No. 04245, 15th Cong.; H. No. 03860, 15th Cong.; H. No. 04427, 16th Cong.; H. No. 03750, 16th Cong.; H. No. 05768, 16th Cong.; H. No. 00112, 16th Cong.; H. No. 00129, 16th Cong.; H. No. 06337, 16th Cong.; H. No. 04640, 16th Cong.; H. No. 039177, 16th Cong.; H. No. 02341, 17th Cong.; H. No. 05367, 17th Cong.; H. No. 00417, 17th Cong.; H. No. 17th Cong.; H. No. 07552, 17th Cong.; H. No. 04670, 17th Cong.; H. No. 06331, 17th Cong.; H. No. 02528, 17th Cong.; H. No. 00990, 17th Cong.; H. No. 04523, 17th Cong.; H. No. 08511, 17th Cong.; H. No. 08433, 17th Cong.; H. No. 09080, 17th Cong.; H. No. 07778, 17th Cong.; H. No. 04692, 17th Cong.

¹⁴¹ The provinces covered were Cavite, Camarines Norte, Camarines Sur, Lanao Del Norte, Palawan, Cebu, Agusan del Sur, Bukidnon, Cotabato, Aklan, Southern Leyte, and Isabela.

¹⁴² The cities covered were General Trias, Puerto Princesa, Lapu-lapu, Batangas, Quezon, Iligan, Biñan, Calamba, Mandaue, and Santa Rosa.

¹⁴³ H. No. 04267, 14th Cong.; H. No. 04256, 14th Cong.; H. No. 05989, 14th Cong.; H. No. 03474, 15th Cong.; H. No. 01792, 15th Cong.; H. No. 04760, 15th Cong.; H. No. 04731, 15th Cong.; H. No. 03692, 15th Cong.; H. No. 03632, 15th Cong.; H. No. 06916, 15th Cong.; H. No. 00625, 15th Cong.; H. No. 00457, 16th Cong.; H. No. 00608, 16th Cong.; H. No. 03718, 16th Cong.; H. No. 04603, 16th Cong.; H. No. 01696, 16th Cong.; H. No. 00569, 16th Cong.; H. No. 02734, 16th Cong.; H. No. 04350, 16th Cong.; H. No. 00836, 16th Cong.; H. No. 05585, 17th Cong.; H. No. 00093, 17th Cong.; H. No. 00147, 17th Cong.; H. No. 02098, 17th Cong.; H. No. 05186, 17th Cong.; H. No. 01913, 17th Cong.; H. No. 03431, 17th Cong.; H. No. 06746, 17th Cong.; H. No. 00514, 17th Cong.; H. No. 07999, 17th Cong.; H. No. 04678, 17th Cong.; H. No. 05162, 17th Cong.; H. No. 04072, 18th Cong.

¹⁴⁴ The provinces covered were Pangasinan, Leyte, Rizal, Zamboanga del Sur, Maguindanao, Nueva Ecija, Surigao del Sur, Laguna, Surigao del Norte, Bohol, and Quezon.

¹⁴⁵ The cities covered were Iloilo, Cebu, Bacolod, Pasay, San Jose del Monte, Caloocan, San Fernando, Angeles, and General Santos.

Committee on Local Government. The remaining House bill¹⁴⁶ was enacted into law but was later declared unconstitutional.¹⁴⁷

Curiously, all the provinces and cities which filed for reapportionment in the preceding congresses, just like in the 18th Congress, were entitled to an increase in legislative districts in accordance with the contemporary interpretation discussed. It baffles the authors as to why certain bills were immediately enacted into law, while others took three congresses to be passed, with some even pending to this day in the House of Representatives.

For instance, the Province of Cavite did not have to refile House Bill No. 3994 (as substituted by House Bill No. 4254) in the 14th Congress and House Bill No. 2341 (as substituted by House Bill No. 5367) in the 17th Congress for these bills to be subsequently enacted into law.¹⁴⁸

In contrast, Cotabato City, which was the subject of House Bill No. 1792 in the 15th Congress, House Bill No. 457 in the 16th Congress, and House Bill 93 in the 17th Congress, has been entitled to its own legislative district since 2010 when it registered a population of 271,786 according to the 2010 census. Pasay City, the subject of the House Bill No. 6916 in the 15th Congress, House Bill No. 608 in the 16th Congress, and House Bill No. 2098 in the 17th Congress, has been entitled to another legislative district by virtue of *Mariano* and *Aquino*. Nueva Ecija, the subject of House Bill No. 3718 during the 16th Congress and House Bill No. 1913 in the 17th Congress, has been entitled to a fifth legislative district even before the 16th Congress for having a population of 1,955,373 according to the 2010 census. Applying *Aquino*, Nueva Ecija is entitled to eight provinces.

With this, we must ask the question forwarded by Professor Prospero de Vera: “What makes [these districts] more important, governance-wise, than another district where representation is also very skewed?”¹⁴⁹

In an interview with Representative Rodriguez, a former member of the Committee on Local Government, he shared that the reason why bills

¹⁴⁶ H. No. 05689, 15th Cong., 1st Sess. (2019).

¹⁴⁷ See *Aldaba v. COMELEC*, G.R. No. 188078, 611 SCRA 137, Jan. 25, 2010; *Aldaba*, 615 SCRA 564.

¹⁴⁸ House Bill No. 01792 was enacted through Republic Act No. 9727 in 2009, while House Bill No. 02341, as substituted by House Bill No. 05367, was enacted through Republic Act No. 11069 in 2019.

¹⁴⁹ Michael Bueza, *Congressional races: will there be 15 more in 2016?*, RAPPLER, Apr. 8, 2015, at <https://www.rappler.com/newsbreak/in-depth/89085-proposed-congressional-districts-16th-congress>

remain pending in the House of Representatives Committee on Local Government is because it is either not considered a priority given the amount of work needed to be done, or the Committee does not have a good reason to pass the reapportionment law.¹⁵⁰ Similarly, the reason why it does not go past the Senate is because the Senate Committee also does not see the merit in the creation of another legislative district despite the same being unanimously passed by the House of Representatives, or because it was also not a priority of the Senate.¹⁵¹ This explanation leads to further questions: is the fact of underrepresentation too small of a concern to not be prioritized? Is there a standard by which the Committee on Local Government bases its decisions as to which bill to prioritize? Clearly, it is not how many years the bill has been pending, nor which city or province is the most underrepresented. From a third-party perspective, the only pattern that can be gleaned from the same is that there is no pattern.

At this point, it would be relevant to look at how deliberations at the committee-level were made. An example would be how House Bill No. 4254 (later passed as Republic Act No. 9727) was tackled and subsequently approved, as seen from the House Committee Report. This committee hearing was attended by all three representatives of Cavite, who each shared their own sentiments in advocating for the passage of the bill.

In his sponsorship speech in the committee meeting, Representative Joseph Emilio Abaya said:

Mr. Chairman, the title of House Bill No. 3394 clearly states that this measure seeks to reapportion the Province of Cavite into seven legislative districts. The latest census of population released by the NSO in April 2008 shows that as of August 2007, the total population of Cavite is 2,856,765. With this figure, Cavite is the biggest province in Southern Tagalog in terms of population. In fact, it could be the most populous and highest population density in the country.

The Constitution in Article VI, Section 5 provides the following: Section 5, paragraph 3 states that each city with a population of, at least, 250,000 or each province shall have, at least, one representative. And Section 5, paragraph 4 also provides that 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.

¹⁵⁰ Interview with Rep. Rodriguez at the House of Representatives (Mar. 11, 2019).

¹⁵¹ *Id.*

In the case of Cavite with only three legislative districts and a population of 2.8 million, the province is extremely underrepresented in Congress. Therefore, this bill proposes to reapportion the province from the present three legislative districts to seven legislative districts. In addition to representation, it is also the desire of the bill to democratize political power so that political power is not mainly controlled by a few families only but allows other families to participate in political decisions.

Based on the geographical and population requirements of the Constitution, Section 1 of the bill specifies the composition of the seven legislative districts. In fact, if you do the mathematical computation, 2.8 million population would entitle us to 11 districts. However, we felt it reasonable enough to just ask for seven for the meantime. Mr. Chairman, as one of the most progressive provinces in the country, it is high time that Cavite is correctly represented in this august Body. To the proposed reapportionment and consistent with the provisions of the Constitution, this bill would allow the people of Cavite to be democratically and proportionally represented in the hallowed halls of congress.

In view of the foregoing, I urge the Committee to facilitate the immediate enactment of this measure. Thank you very much, Mr. Chairman.¹⁵²

Representative Jesus Crispin Remulla, the 2nd District Representative of Cavite and co-author of the bill, followed the sponsorship statement, with the following statement:

[U]nder the law, we can be entitled to 11 districts but we just decided to put it at seven because we know that the whole country is also asking for more districts. So at seven districts, we will be having an average of 400,000 population per district. So we are not abusing any privilege here. It is just a matter of appropriate representation, Mr. Chairman, and hopefully that this body will understand the plight of the Caviteños.

When we go home to our districts, the district of Congressman Barzaga is the biggest in the whole country right now. It has a voting population of almost one million people, almost 650,000 people. In my district, Mr. Chairman, the voting population is 340,000 people during the last elections and the same goes for Congressman Abaya. Many bills have been filed even with lesser

¹⁵² H. Rpt. 617, 14th Cong., 1st. Sess. (2008). Committee on Local Government.

population during past Congresses approved by this House giving extra districts to the different provinces...¹⁵³

Representative Elpidio Barzaga of the 3rd district of Cavite chimed in to complete the three co-authors from Cavite:

In my case, during the last elections, there were 677,000 voters in my district. At present, I represent the following towns: my own town of Dasmariñas with an actual population of 556,330 based on the 2007 Census. The Municipality of Imus, with 253, 158 inhabitants; the town of Camona, 68,135; Gen. Mariano Alvarez, 136,613; Gen. Trias, 218,387, Tanza, 171,795; Trece martires City, 90,177.

Based on the 2007 Census, the district which I represent covers a population of 1,494,595, and I have to admit personally that I could not be an effective representative. I could not be an effective voice if I will be speaking for 1,494, 595 Filipinos. And this is practically the reason why we have a reapportionment insofar as the congressional district in the Province of Cavite is concerned...¹⁵⁴

Representative Rufus Rodriguez, who was part of the Committee on Local Government, expressed his reservations:

I laud the three Congressmen of the three districts of Cavite for being unanimous and in units for pushing for more representation which they justly deserve. My only concern, Mr. Chairman, is that our Constitution provides that within three years following the return of every census, Congress shall make reapportionment of legislative districts based on standards in the section. Now, the purpose of reapportionment, Mr. Chairman, is to assure that there is a united, uniform way of granting all the districts representation. Even myself, we are now entitled to one more. We have now 750,000 and we are therefore to be able...according to Mayor Jaraula, he wants...me to sponsor a third district in Cagayan de Oro. But my point is this...first, we should have a general agreement among all the congressmen on having a reapportionment law which will now take a look at all the population of all provinces and cities so that, at one time, we will address the representation not only in Cavite which justly deserves more seats and the others. Secondly, in that reapportionment, I would [want] that we increase the population requirement...

¹⁵³ *Id.* at 26.

¹⁵⁴ *Id.*

Right now, Mr. Chairman, we have already 239 congressmen. If we allow all and every district to ask for apportionment and ask based on these requirements, I would see the day that before 2010 we will have so many congressmen. And we are trying to conserve the resources of the government, we do not want congressmen to be lima isang piso. We really would like to make it a general comprehensive reapportionment, at the same time, give immediately equal representation to other provinces that would lead this particular bill. If we allow different districts and cities to, you know, come and then propose and we see a non-equal representation now because while Cavite also needs this, other provinces which have not been able to articulate their demands here will not be able to have representation. And that is why, Mr. Chairman, I plea to our friends from Cavite let us have a general reapportionment bill, wherein we think of the requirements and let us not, in that reapportionment bill, just allow so many congressmen...at the time now when everything is reachable by cellphone...

So my point is, Mr. Chairman, I am not against this. But I would like to ask that the local government awaits a reapportionment bill, and let's give to all the provinces and cities the number of congressmen they deserve...¹⁵⁵

Representative Remulla responded to the manifestation of Representative Rodriguez:

To respond to the [...] remarks of the Honorable Rodriguez, with all due respect. With the current law, we have the option to file for eleven districts, but we did not. We filed for seven districts because we believe that is the best way to divide the province into contiguous adjacent LGUs [that] will make up to the legislative districts. If . . . somebody files for a reapportionment and makes it four hundred thousand, Mr. Chairman, some districts will have to disappear from the face of this earth because some districts were created out of new provinces which is required under the Constitution. What we are saying here is that there are some provinces in the country like Batanes, which is only one barangay in Bacoor. . . It's just about time, Mr. Chairman.

All attempts of Cavite since 1984 have been blocked, mid-way somehow in Congress to have additional districts. So it's our plea, together, the three of us went here into this Body to appeal for understanding. And please remember, I believe that each and

¹⁵⁵ *Id.* at 27-28.

everyone of you will have something to do with Cavite, your relatives your provincemates, we have accommodated all of them into Cavite...So this is just a bill for the whole country itself.¹⁵⁶

When Gabriela Partylist Representative Luzviminda Ilagan asked the Cavite representatives for their basis in the distribution and allocation of the districts, Representative Remulla said they used the contiguity and homogeneity of the areas, and noted that “it is not something that we put in together arbitrarily to suit a (sic) political ends. In fact, it may work against some of our political ends.”¹⁵⁷

However, Representative Abaya would later say:

Initially, our intention was to redistrict within the district. I think that would limit probably political confrontation amongst us, so we try to follow that line. However...that was preserved in my district, however in the 2nd and 3rd, compromises were made which Congressman Remulla and Congressman Barzaga were amenable to.

As regards to the comment of our good friend Cagayan de Oro, ideally the re-apportionment bill where you do it nationally is best because consultation is done. However, I know that was attempted before, I think in the 11th or 10th Congress. I think it would be an impossible dream that we could do it altogether all at once.¹⁵⁸

Representative Rodriguez reiterated his point of having a general reapportionment law. Thus:

My point, Mr. Chairman, if we have rationalized the cities and the provinces, let us now rationalize Congress. Let us not have more Congressmen. What should be done is to be able to have the present set of congressmen be able to serve. And if there is a rationalization, it should be all over the country as not to deprive the other districts and provinces the due representation that they have. That’s why, Mr. Chairman, [...] I really am in support of more representation for Cavite as other districts have.

Mr. Chairman, I wish that we continue with the Garcia proposal to rationalize Congress, otherwise we will have more salaries, more

¹⁵⁶ *Id.* at 29.

¹⁵⁷ *Id.* at 30.

¹⁵⁸ *Id.* at 32.

pork barrel. Everything will be more expensive. And I believe that it is about time we ourselves, at the present number, should be able to work for this country.

So Mr. Chairman, I really appeal that we have a re-apportionment. We start the re-apportionment law. All the congressmen. Manila would need the re-apportionment. Now, the others, yes, because the increase of... so it has to be a general one based on a census which was just finished last year.¹⁵⁹

Another notable statement during the discussion was made by Representative Pablo John Garcia who manifested that “Cebu also is very much underrepresented, but if we wait for a general re-apportionment bill, we might as well [...] not wait for it at all... We only succeeded in making different districts during the 1987 Constitution because we cannot expect the whole... all members of Congress to agree.”¹⁶⁰

Given the obvious impasse, a motion to divide the house was made. Out of the nine representatives present in the meeting, only Representative Rodriguez voted “no” for the reasons expressed above.¹⁶¹

The committee hearing is illuminating as to how a reapportionment bill makes it way past the Committee-level. A lot of our initial observations were affirmed by the representatives themselves through the committee record.

First, it is clear that the representatives are aware of the mandate of the Constitution not only as to the standards for the creation of legislative districts, but also as to the mandate of passing a general reapportionment bill within three years following the census. *Second*, there is no need to have any novel justification for a bill to ideally pass the committee level. As the records would show, the Cavite representatives merely invoked the entitlement of their province as per the Constitution—which they arrived at by dividing the population of the province by 250,000—and the idea of misrepresentation.

Third, Representative Abaya in his sponsorship speech admitted that reapportionments were done in consideration of political dynasties when he said the reapportionment of Cavite would result in democratizing political power so it is not only “controlled” by a “few families,” thereby allowing “other families to participate in political decisions.” Representative Abaya also

¹⁵⁹ *Id.* at 33.

¹⁶⁰ *Id.* at 34.

¹⁶¹ *Id.* at 34-35.

recognized how compromises are the first consideration when he noted how the initial district was done to “limit” probable “political confrontation” amongst the incumbent representatives.

Fourth, despite being aware of the Constitutional entitlement, Representatives limited the districts that they asked for in consideration of demands for districts from other representatives. Instead of asking for the 11 districts they were entitled to, the representatives only asked for seven.

Fifth, the representatives are aware of previous attempts to come up with a general apportionment law as well as the merits of having one—that is, proportionate representation across all provinces and cities. However, they rejected the idea on the ground of non-feasibility and dismissed the same as an “impossible dream.”

Sixth, there is an active effort to “block” reapportionment bills in the House of Representatives despite all the Constitutional provisions providing for entitlement and mandating periodic general reapportionments.

Seventh, and probably the most important takeaway, is that the sole objection raised in the committee-level was that a general reapportionment bill be first passed—which, evidently, is an unpopular opinion amongst the representatives.

The above discussion affirms the position of the authors that in theory, nothing should stop the passage of reapportionment bills in the House of Representatives. In fact, the representatives themselves are aware that they are required to do so.

Interestingly, it has been suggested that the passage of a reapportionment bill would ultimately depend on whether the sponsoring representative is in good relations with the House Speaker and the majority.¹⁶² Alternatively, it has also been suggested that piecemeal redistricting is used as rewards for political allies or as bargains for political gains.¹⁶³

In this section, a lot of questions were raised in an attempt to make sense of the behavior of Congress with respect to its constitutional mandate on reapportionment. While these questions can never be definitively

¹⁶² Bueza, *supra* note 149.

¹⁶³ Tiongson-Mayrina & Barrientos-Vallarta, *supra* note 36. “Piecemeal redistricting is often a very political process, and it is sometimes used to reward allies or fulfill bargains with politicians from different provinces”

answered, it is obvious that despite the existence of a standard provided by the Court in *Mariano* and *Aquino*, ultimately, it is politics that decides who is entitled to representation and whether or not constitutional provisions are to be followed.

IV. REDISTRICTING A POLITICAL QUESTION?

As discussed in the previous section, the entire process of filing a reapportionment law, just like any other law, is filled with discretion. The stakes, however, are higher in legislative reapportions because an unfavorable redistricting could cause the end of the political career of incumbents if, as a result thereof, they end up losing control of their respective bailiwicks.¹⁶⁴ Hence, enacting reapportionment laws are pursued with extreme caution, if not totally avoided. Additionally, as shown earlier, this is usually availed of for purposes of furthering political power of one's self or relatives.

With this, the number of seats in the House of Representatives is left to the political whims of its members. These members, in effect, get to decide whether or not its present composition is an adequate representation of the increasing population of the Philippines, regardless of what the Constitution says. Ultimately, it is the people, or those sworn to be served by the members of Congress, who are the victims of this politicking.

But while it is conceded that legislative reapportionments are subjected to a political process, the issues of whether or not this may be questioned by the citizens and whether or not it is impervious from judicial scrutiny have long been settled.

In *Macias v. COMELEC*,¹⁶⁵ members of the House of Representatives attempted to pass a general reapportionment law. Interestingly, this happened despite the absence of a constitutional mandate (at the time) for a reapportionment to be done “on the basis of a uniform and progressive ratio,”¹⁶⁶ and every three years following the census¹⁶⁷—provisions which are found only in the 1987 Constitution.

¹⁶⁴ *Id.* “Siyempre ang pinag-uusapan na kasi dito ay ang posibilidad na mabago yung turf ng mga pulitiko. Kung sa Senate, nationwide naman ang hawak kasi, siguro uusad ang ganitong usapan pero sa House, since yun mismong sakop na nila ang pinag-uusapan, malabo siguro. Gusto pa rin nila yung status quo,” the official said.”

¹⁶⁵ *Macias v. COMELEC*, G.R. No. L-18684, 3 SCRA 1, Sept. 14, 1961.

¹⁶⁶ CONST. art. VI, § 5(1).

¹⁶⁷ Art. VI, § 5(4).

The Bill started with objective apportionments following the rule on compact, contiguous, and adjacent territories already present in the 1935 Constitution. Unfortunately, during the deliberations, politics inevitably meddled with the initial apportionment, as each legislator argued for adjustments to the initial reapportionment.¹⁶⁸ Because of this, the final version of the draft, which was enacted as Republic Act No. 3040, violated the 1935 constitutional provision requiring that the districts “shall be apportioned among the several provinces as nearly as may be according to the member of their respective inhabitants,” as certain provinces were granted more district representatives than provinces with higher populations.¹⁶⁹ With this, the petitioners—politicians representing provinces “discriminated” upon—filed a petition assailing the law for apportioning districts “without regard to the number of inhabitants of the several provinces.”¹⁷⁰

Respondent COMELEC argued that the contention involved a political question outside the jurisdiction of the Supreme Court, citing *Colegrove v. Green*.¹⁷¹ The Supreme Court outrightly rejected *Colegrove* for being inconclusive¹⁷² and instead ruled in favor of a citizen’s right to question a reapportionment statute based on the “right to have the state reapportioned according to the Constitution, and to be governed by a Legislative fairly representing the whole body of electorate and elected as required by the Constitution.”¹⁷³ The Court voided the law for being unconstitutional despite the fact that it admittedly “improve[d] existing conditions.”¹⁷⁴

At this point, given how well-entrenched political dynasties are, and the trend of apportionments since 2000, the chances of a reapportionment law passing in the Congress seems farfetched, and at most wishful thinking. The case raises a glaring question: if *Macias* was deemed repugnant to a more lenient 1935 Constitution, what does this say about the representation in the present Congress in relation to the 1987 mandate?¹⁷⁵

¹⁶⁸ Joaquin Bernas, *Perpetuating Gerrymandering*, PHIL. DAILY INQUIRER, Apr. 19, 2010, available at <https://www.pressreader.com/philippines/philippine-daily-inquirer-1109/20100419/283296043780991>

¹⁶⁹ *Macias*, 3 SCRA at 5-6.

¹⁷⁰ *Id.* at 2-3.

¹⁷¹ *Id.* at 3; *Colegrove v. Green* was popularly thought to have advanced the doctrine that disputes regarding legislative reapportionments is beyond the competence of district courts; See *Challenges to Congressional Districting: After Baker v. Carr, Does Colegrove v. Green Endure?*, 63 COLUM. L. REV. 98, 98 (1963).

¹⁷² Only three voted that it is a political question. See *Macias*, 3 SCRA at 3.

¹⁷³ *Id.*

¹⁷⁴ *Id.* at 7.

¹⁷⁵ Bernas, *supra* note 168.

V. LEGAL ISSUES AND POLICY CONSIDERATIONS

After discussing the contemporary interpretation of the rules on legislative reapportionment and how it has been applied by lawmakers since 2012, in this section, the authors submit that the present practice of legislators is contrary to the Constitution. Unfortunately, these practices continue to exist because the Supreme Court has given its blessing, and, as the authors submit, the Supreme Court has erroneously done so.

The authors submit that the misapplication of the legislative rule resulting to malapportionment is a result of the case of *Mariano v. COMELEC*,¹⁷⁶ subsequently used as basis and affirmed by *Aquino v. COMELEC*.¹⁷⁷ Prior to discussing these cases, however, it is imperative to re-analyze the provision themselves.

The Constitution, under Section 5, Article VI, specifies the standards to be followed in the apportionment and reapportionment of legislative districts. The provision reads:

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.

(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.¹⁷⁸

¹⁷⁶ 242 SCRA 211.

¹⁷⁷ 617 SCRA 623.

¹⁷⁸ CONST. art. VI, § 5.

Aside from the Constitution, the Supreme Court has also relied on the Ordinance appended to the Constitution in interpreting the standards of legislative apportionment. The pertinent sections of the Ordinance read:

Section 1. For purposes of the election of Members of the House of Representatives of the First Congress of the Philippines under the Constitution proposed by the 1986 Constitutional Commission and subsequent elections, and until otherwise provided by law, the Members thereof shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila Area as follows:

Section 3. 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.¹⁷⁹

As gleaned from the aforementioned provisions, the foremost consideration in legislative reapportionment is the 250,000 population requirement. This is the uniform and progressive ratio rule.

In this section, the authors will analyze the constitutionally-mandated standards of uniform progressive ratio for legislative reapportionment, and how the departure from this rule led to the infringement of the right of the people to equal protection of the laws. Moreover, the authors will show that this departure, done through the passage of piecemeal legislation, encourages gerrymandering, contrary to the spirit of the Constitution. After establishing the constitutional standards for apportionment, the authors will re-examine the current rule of apportionment as interpreted by the Court in the case of *Aquino* and *Mariano*. Finally, the authors will demonstrate that although piecemeal legislation is allowed and valid under the Constitution as a means of reapportioning legislative districts, the necessity of regularly passing the

¹⁷⁹ CONST. (Ordinance), §§ 1 & 3.

mandatory general reapportionment law by Congress is the constitutionally sound method of reapportionment that avoids departure from the mandated standards.

A. Uniform and Progressive Ratio Rule of 250,000 People Per Legislative District

Under Paragraph 1, Section 5 of Article VI, the apportionment of legislative districts among the provinces, cities, and the Metropolitan Manila area must be in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio.¹⁸⁰ However, in practice, Congress does not follow this standard. A closer examination of the composition of the 16th Congress (2013-2016) would show that there is no ratio followed at all. In fact, Congress has never come up with a justifiable criterion on prioritizing which districts should be redistricted first.¹⁸¹

Region	Total Population	Percentage of Region Population to Total Population	16th Congress Composition	Percentage of Representatives per Region to Total Representatives
NCR	12,877,253	12.75	32	13.44
CAR	1,722,006	1.71	7	2.94
Region I	5,026,128	5	12	5.04
Region II	3,451,410	3.42	10	4.2
Region III	11,218,177	11.2	21	8.82
Region IV-A	14,414,774	14.27	26	10.92
Region IV-B	2,963,360	2.93	8	3.36
Region V	5,796,989	5.74	16	6.72
Region VI	4,477,247	4.43	11	4.62

¹⁸⁰ CONST. art. VI, § 5(1).

¹⁸¹ Bueza, *supra* note 149.

Region VII	6,041,903	5.98	14	5.88
Region VIII	4,440,150	4.4	12	5.04
Region IX	3,629,783	3.59	9	3.78
Region X	4,689,302	4.64	14	5.88
Region XI	4,893,318	4.85	11	4.62
Region XII	4,545,276	4.5	8	3.36
Region XIII	2,596,709	2.57	9	3.78
ARMM	3,781,387	3.74	8	3.36
NIR	4,414,131	4.37	10	4.2

In *Aquino*, Justice Carpio’s dissenting opinion defined the phrase “on the basis of a uniform and progressive ratio” to mean that the number of legislative districts shall increase as the number of population increases, in accordance with the rule on proportional representation.¹⁸² This is rooted on the democratic principle of equality in voting power, whereby each vote is worth the same as any other vote.¹⁸³

In Section 1, Article II of the Constitution, it is declared that the Philippines is a democratic and republican State.¹⁸⁴ As explained by Bernas, this provision of the Constitution traces its roots back in 1934, when the 1935 Constitution was drafted pursuant to the McDuffie Law.¹⁸⁵ At the time, it was understood that a “Republican State,” through the words of James Madison, is one where the power of government is directly or indirectly derived from the great body of people in a society rather than an inconsiderable proportion or a favorable class of it,¹⁸⁶ and is administered by persons holding their office.¹⁸⁷

¹⁸² *Aquino*, 617 SCRA at 660.

¹⁸³ *Id.* at 656.

¹⁸⁴ CONST. art. II, § 1.

¹⁸⁵ Bernas, *supra* note 31, at 56-57.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* at 57.

In interpreting these constitutional provisions together, it is clear that a democratic and republican state, in the context of legislative districting, could only be achieved if equality of voting power is present. While it is impossible to attain an absolute equality of voting power among the people in all legislative districts, it is not required that the number of people in a given district be exact and the same for all legislative districts.¹⁸⁸ However, to be as close to the desired equality of voting power as possible requires that a progressive ratio be established.

As will be discussed, the requirement of 250,000 people per legislative district finds support not only in the text of the Constitution, but also in the intent behind the enactment of Section 5, Article VI.¹⁸⁹ In addition, compliance with this progressive ratio averts the infringement on the right of the people to equal protection of the law brought about by a drastic inequality in representation due to malapportionment.

1. Verba Legis

Progressive ratio means that the number of legislative districts shall increase as population increases.¹⁹⁰ While the Constitution itself is silent as to what this ratio should be, the authors submit that it can be inferred from Paragraph 3, Section 5 of Article VI that the intended ratio should be one legislative district for every 250,000 people.¹⁹¹ Since cities are entitled to one representative of its own after it attains 250,000 population, then this number should be treated as the baseline for every legislative district to be created. Thus, for every 250,000 increase in its population, a city becomes entitled to an additional district representative.

2. Intent of the Framers of the Constitution to Set 250,000 per Legislative District as the Progressive Ratio

The intent of the framers of the Constitution in strictly following this progressive ratio is apparent from their deliberations. The Constitutional Commission, in discussing the initial apportionment to be made pursuant to the Ordinance appended to the Constitution, had the following exchanges:

¹⁸⁸ *Bagabuyo*, 573 SCRA at 309-310.

¹⁸⁹ CONST. art. VI, § 5.

¹⁹⁰ *Aquino*, 617 SCRA at 660.

¹⁹¹ CONST. art. VI, § 5(3).

MR. DAVIDE: Our proposal does not disturb the law on the urbanization of a city. It will remain to be governed by the Local Government Code. Therefore, if Angeles City is really qualified, it has to apply as a highly urbanized city under the Local Government Code. What is needed is only an application. I remember very well that in 1984, although Bacolod and Iloilo were already qualified as such, both cities did not apply as highly urbanized cities.

MR. SUAREZ: Yes. But under the requirements now, we need at least a 250,000 population in order to qualify for one district. So even if it is considered a highly urbanized city, if it has no population of 250,000, it will not be entitled to one district.

MR. DAVIDE: That is correct.

MR. SUAREZ: Since Angeles City has only a population of about 224,000 to 226,000, notwithstanding the fact that it may have been declared a highly urbanized city, it will not be entitled to one representative district.

MR. DAVIDE: That is correct.

MR. SUAREZ: Therefore, the voters in Angeles City would be qualified to vote on the provincial level. I want to make that very clear.

MR. DAVIDE: If it had already been classified as a highly urbanized city, it cannot vote for the provincial officials even if it were already entitled to; and even if it had already become a highly urbanized city, it will not qualify yet to a separate seat. But it is already classified as a highly urbanized city in accordance with the Local Government Code; however, it cannot vote for the provincial officials.

MR. SUAREZ: Yes, but that is disenfranchising them of their right to vote on the provincial level.

MR. DAVIDE: We approved already the Article on Local Government under which highly urbanized cities and cities whose charters do not allow its residents to vote for provincial officials cannot vote or participate in the election of provincial officials.

MR. SUAREZ: But there would be a discriminatory situation. Here is Angeles City. It is not entitled to any representative district. Therefore, they cannot vote for any Congressman. It is not entitled to vote on the provincial level because it is a highly urbanized city.

Then are we not discriminating against the electors and the voters of Angeles City?

MR. DAVIDE: Insofar as its urbanization is concerned, that particular matter would not be an issue here. But we cannot agree with the Commissioner that the residents of Angeles City are also disenfranchised to vote for a representative in the House of Representatives because it will be joined together with another municipality.

MR. SUAREZ: Agreed. As the Commissioner proposed it, Angeles City would be tied up with the municipalities of Magalang and Mabalacat.

MR. DAVIDE: Yes.

MR. SUAREZ: So they would be entitled to one representative district.

MR. DAVIDE: Yes.¹⁹²

Clearly, even if a city would be only a few thousand people away from being entitled to its own district, the 250,000 people per district rule was strictly applied by Commissioner Davide.¹⁹³ However, as will be discussed in the next part of this paper, provinces are recognized as an exception to the 250,000 population requirement, and consequently, to the uniform and progressive ratio rule. Nevertheless, this exemption is only for the first district, but not for subsequent ones.

3. Equal Protection of the Laws

Every citizen in the country, whether voting or non-voting, has the right to be represented by a district representative who, in theory, should be advocating for the interests of their constituents. Non-compliance with the uniform and progressive ratio results in an unequal treatment of citizens in legislative districts as a consequence of underrepresentation. The present situation of inequitable apportionment denies citizens in underrepresented districts an opportunity to be served better. Underrepresentation has a direct

¹⁹² RECORD CONST. COMM'N 107 (Oct. 13, 1986), *available at* <https://www.officialgazette.gov.ph/1986/10/13/r-c-c-no-107-monday-october-13-1986/>

¹⁹³ *Id.* at 954.

effect on the capability of the district representatives to efficiently advocate and lobby for their citizens' interests.¹⁹⁴

The right of people to be represented and to be heard is adversely affected when there are too many people covered by one representative. In contrast, where a city or province complies with the progressive ratio, the legislative representative deals with an ample amount of people, enabling him or her to properly ascertain their needs, which should translate to the passage of laws.

Thus, a reapportionment law which causes such inequality violates the right of the people to equal protection of the laws, enshrined under Section 1, Article III of the Constitution.¹⁹⁵ In *Biraogo v. The Philippine Truth Commission of 2010*,¹⁹⁶ the Supreme Court defined this right as that which requires all persons or things similarly situated to be treated alike, both as to rights conferred and responsibilities imposed.¹⁹⁷ The equal protection clause of the Constitution allows for a valid classification,¹⁹⁸ which would require that: (1) it be reasonable, meaning the classification should be based on substantial distinctions which make for real differences; (2) it be germane to the purpose of the law; (3) it must not be limited to existing conditions only; and (4) it must apply equally to each member of the class.¹⁹⁹

Clearly, an attempt to reapportion a province or city which does not take into consideration the concomitant increase of population in another province or city violates the right of the people in underrepresented districts to the equal protection of the laws. There is no discernible and reasonable classification that distinguishes inhabitants of an underrepresented district to those inhabitants of districts that comply with the progressive ratio rule.

The right that should have been equally afforded to all inhabitants in all legislative districts refers to the right of equal representation. In the U.S. case of *Stiglitz v. Schardien*,²⁰⁰ the Court of Appeals of Kentucky recognized the right of the citizens to "have the districts defined in accordance with the

¹⁹⁴ Tiongson-Mayrina & Barrientos-Vallarta, *supra* note 34. Professor Ronald Mendoza argues that "Congressmen in districts that have too many residents may find it difficult to represent the general interests of their constituents" and that redistricting ensures that "our citizens have a voice in their government."

¹⁹⁵ CONST. art. III, § 1.

¹⁹⁶ *Biraogo v. Phil. Truth Comm'n*, G.R. No. 193036, 637 SCRA 78, Dec. 7, 2010.

¹⁹⁷ *Id.* at 167.

¹⁹⁸ *Id.* at 169-170.

¹⁹⁹ *Id.*

²⁰⁰ 40 S.W. 2d, 315, (Ky. Ct. App. 1931).

Constitution, and comparisons to test that objective must be made according to the facts, and not by the hypothetical unit.” Thus:

The citizen possesses political as well as pecuniary and personal rights which may be the subject of an action to prevent the operation of unconstitutional legislation. It is not merely the right of the citizen under the Constitution to be fairly represented in the government, but also his right to prevent unequal and unconstitutional discrimination against his own in favor of other districts, that enables the court to intervene. Every citizen, taxpayer, and voter has an undoubted right to have the districts for representatives and senators created in accordance with the Constitution. It is not enough that one district may be of the proper size theoretically so long as other districts are given greater representation than is warranted by the Constitution and their population. The discrimination is just as real and just as wrong whether it be based upon a denial of representation to one locality or be founded upon excessive representation given to another. Indeed, it necessarily operates to bring about both results, and in either case the constitutional standard of equality is destroyed. The people are entitled to have the districts defined in accordance with the Constitution, and comparisons to test that objective must be made according to the facts, and not by the hypothetical unit. If one district is approximately the size that all districts should be, and another district with half the population is given the same or greater representation the result is inequality in the Legislative Assembly. The rights of the whole state are linked up with the representation of the several districts.²⁰¹

The provision that sets the standards for apportionment in *Stiglitz* is similar to the standard of uniform and progressive ratio insofar as it also requires every district to be as equal in population as may be possible.²⁰² The

²⁰¹ *Id.*

²⁰² The provision cited in *Stiglitz* reads as follows: “The first general assembly, after the adoption of this Constitution shall divide the state into thirty-eight senatorial districts, and one hundred representative districts, as nearly equal in population as may be without dividing any county, except where a county may include more than one district, which district shall constitute the senatorial and representative districts for ten years. Not more than two counties shall be joined together to form a representative district: *Provided, In doing so the principle requiring every district to be as nearly equal in population as may be shall not be violated.* At the expiration of that time, the general assembly shall then, and every ten years thereafter, redistrict the state according to this rule, and for the purposes expressed in this section. If, in making said districts inequality of population should be unavoidable, any advantage resulting therefrom shall be given to districts having the largest territory. No part of a county shall be added to another county to make a district, and the counties forming a district shall be contiguous.” (Emphasis supplied.)

Court of Appeals of Kentucky further elucidated that the right of equal representation preserves all other rights.²⁰³ The source of the laws that govern the daily lives of the people, the control of the public purse from which the money of the taxpayer is distributed, and the power to make and measure the levy of taxes, are so essential, all-inclusive, and vital that the consent of the governed ought to be obtained through representatives chosen in an equal, free, and fair elections.²⁰⁴

The Supreme Court recognized this right of representation in two cases. In *Macias v. COMELEC*, the Court declared Republic Act No. 3040, the sole attempt in the Philippines for a general reapportionment law, as unconstitutional for being unequal in apportionment.²⁰⁵ To support its decision, the Court made reference to *Stiglitz* to demonstrate that inequality of apportionment is sufficient basis for the Court to strike down an apportionment law as unconstitutional.²⁰⁶

Also in *Bagabuyo v. COMELEC*, the Supreme Court presented the underlying principle behind Section 5, Article VI of the Constitution as that of political representation.²⁰⁷ Essentially, the goal of establishing a uniform and progressive ratio in legislative districts is to ensure that there is a balance between the number of people being represented by each district representative. In theory, having too many people being represented by only one representative leads to difficulty on their part to perform their mandate of lobbying for laws which should result in the betterment of the lives of their constituents.

As demonstrated, compliance with the uniform and progressive ratio rule allows for equal treatment of citizens. The right to representation of all citizens is preserved because, ideally, if the uniform and progressive ratio rule is followed, there would be no underrepresented districts. Every citizen is presented an equal opportunity to be properly managed and represented by their district representatives.

4. Exception of Provinces to the Uniform and Progressive Ratio Rule

²⁰³ *Stiglitz v. Schardien*, 40 S.W. 2d, 315, (Ky. Ct. App. 1931).

²⁰⁴ *Id.*

²⁰⁵ *Macias*, 3 SCRA 1.

²⁰⁶ *Id.* at 6-7.

²⁰⁷ *Bagabuyo*, 573 SCRA 290.

The second sentence of Paragraph 3, Section 5 of Article VI of the Constitution provides that “each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.”²⁰⁸

A plain reading of the provision clearly shows that the requirement differs between a city and a province. For cities to be entitled to at least one district representative, the population therein must be at least 250,000. However, provinces are automatically entitled to one representative regardless of population.

In the Constitutional Commission’s deliberations, specifically on the Ordinance to be appended to the Constitution, Commissioner Davide allotted one representative for each of the then 73 provinces in the country, without regard to the population of each. In contrast, the qualification of at least 250,000 was necessary for the allotment of representatives for cities.

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 the number of their inhabitants on the basis of a uniform and progressive ratio. With these as the guidelines, cities which do not qualify for a seat have to become component parts of a district in a province where they are geographically located.²⁰⁹

²⁰⁸ CONST. art. VI, § 5(3).

²⁰⁹ RECORD CONST. COMM’N 107 (Oct. 13, 1986), *available at* <https://www.officialgazette.gov.ph/1986/10/13/r-c-c-no-107-monday-october-13-1986/>

Thus, even the province of Batanes, which as of 2015 has a population of only 17,246,²¹⁰ was granted its own legislative district representing the six municipalities therein.

The effect of the grant of a legislative district to provinces below the 250,000 population requirement essentially disrupts the rule on uniform and progressive ratio. However, the separate treatment of provinces is permissible as the Constitution itself also decrees their automatic entitlement.

While this is the case, the authors submit that in order for the exception to not drastically disrupt the standard of uniform and progressive ratio, the increase in the number of district representatives for provinces must first meet the 250,000 population requirement, the same rule that applies to cities. To demonstrate, in order for the province of Batanes to be entitled to two district representatives, its population must first reach 500,000. By applying this rule, the spirit and intent of the Constitution behind the uniform and progressive ratio as a standard of apportionment is upheld, despite the special treatment afforded to provinces.

From the foregoing, it is clear that the 250,000 people per legislative district is the clear mandate of the Constitution. To be sure, this progressive ratio was also the standard employed by the framers of the Constitution during the first apportionment following the 1987 Constitution, and this ratio gives life to the fundamental guarantee of equal protection afforded under Section 1, Article III.

B. Constitutional Duty of Congress to make General Reapportionment Law

1. Verba Legis

There are two ways recognized by the Constitution to increase the maximum number of members of the House of Representatives. The first method is through piecemeal legislation, which finds support under Paragraph 1, Section 5 of Article VI of the Constitution, specifically under the phrase “unless otherwise provided by law.”²¹¹ The second method is through the

²¹⁰ Phil. Statistics Authority, *Batanes QuickStat*, PSA WEBSITE, at <https://psa.gov.ph/content/batanes-quickstat-june-2018>

²¹¹ “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,

passage of a general reapportionment law mandated under Paragraph 4, Section 5 of Article VI of the Constitution.²¹² Congress is required to make a reapportionment of legislative districts based on the previously discussed standards for apportionment within three years following the return of every census, as indicated by the use of the word “shall.”

While piecemeal legislation is merely permissible, Congress cannot escape its clear constitutional duty to pass a general reapportionment law. However, as will be discussed below, the present practice of only passing piecemeal legislation without the benefit of a general reapportionment law should be deemed invalid as it drastically violates the uniform and progressive ratio rule and encourages gerrymandering. Piecemeal legislations would be constitutionally sound only after Congress passes a true general reapportionment law.

2. *The Constitution as Against Gerrymandering*

To recall, gerrymandering is defined as the creation of representative districts out of separate portions of territory in order to favor a candidate.²¹³ Politicians commit gerrymandering through the passage of piecemeal legislations disguised as *bona fide* attempts to abide by the progressive ratio rule under the Constitution.

An examination of the Records of the 1986 Constitutional Commission shows that the intent of the framers in deciding the scope and extent of apportioning legislative districts was predicated on, among others, preventing gerrymandering. The following is a series of exchanges between Commissioner Hilario Davide and Commissioner Ambrosio Padilla, on the determination of the number of representatives for Congress:

THE PRESIDING OFFICER (Mr. Colayco): Is the Assembly ready? I think Commissioner Padilla wants to interpellate.

Mr. PADILLA: Yes, Mr. Presiding Officer.

This Section 5 provides for a House of not more than 250 members and it does not include the sectoral list.

and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.” (Emphasis supplied.)

²¹² “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.”

²¹³ Bernas, *supra* note 51.

MR. DAVIDE: Mr. Presiding Officer, it includes already the party list representatives.

MR. PADILLA: I recall that during the past Congress where we had a Senate of 24, the House was only composed of not more than 120, and actually, it was much less than that number. Of course, during the Batasang Pambansa, being a unicameral assembly, the number, I think, increased to about 250?

MR. DAVIDE: The interim Batasang Pambansa had a membership of 187, I believe, including already the sectoral representations and those who had been appointed from the Cabinet.

MR. PADILLA: What about the last Batasan?

MR. DAVIDE: For the regular Batasang Pambansa, according to the ordinance appended to the 1973 Constitution, there were 183 regular representatives. So if we adopt that ordinance, the regular representatives will only be 183. The recommendation of COMELEC for the first Congress under this Constitution is 199.

MR. PADILLA: Does the Commissioner not believe that a House composed of, say, 250—although it says not more—is a vague Assembly, a House composed of so many Members?

MR. DAVIDE: Mr. Presiding Officer, we had taken that up. That issue was already decided. However, I would only stress that the 250 is maximum, and therefore, the actual number may be much less. That is why if we will adopt the 1984 model, we will only have 183 regular district representatives. We also propose in this amendment the clause “UNLESS OTHERWISE FIXED BY LAW” to provide again the possibility of a reduction of the maximum or an increase beyond the 250 if the population would grow so much.

MR. PADILLA: Assuming that the population may grow, provided the district is contiguous and to avoid gerrymandering, a particular district may be composed not only of a determinate territory but also the population or inhabitants therein, the registered voters therein which may be increased. What I mean is, if before one district would have 150,000 or 200,000, it is simple to make the number composing one district, say, 250,000 or 300,000 so that the seats in the House of Representatives may not be so numerous that it may be difficult sometimes to have a more orderly procedure or, in the absence of several Members, to even constitute a quorum. What I am driving at is: If under the Congress, before martial law, the House of Representatives, where our Commissioner Laurel

used to be a Speaker, only consisted of a little more than 100 seats, does the Commissioner not believe that 250—assuming that this is the maximum—is still very big?

MR. DAVIDE: Mr. Presiding Officer, taking into account the population—as projected in 1986, the population of the country will be 56 million, and the constant used by the COMELEC in allocating the number of seats to 199 is a population of 400,000 already—so any further reduction may mean that there will be more and more people represented by less and less. It might not be conducive to a legislative body which is supposed to be representative.²¹⁴

During the discussion on the Ordinance to be appended to the Constitution, in which legislative districts were apportioned by COMELEC, Commissioner Jamir explained in detail his amendment to the proposed apportionment of Cavite²¹⁵ due to allegations that his proposed amendment amounted to gerrymandering. Commissioner Jamir refuted such allegation by showing that the proposal was based on the standards of contiguous, compact, and adjacent areas, with due regard to the livelihoods of those grouped.²¹⁶ Thus:

MR. JAMIR: I wish to thank beforehand Commissioner Davide for his stating in his sponsorship speech that the COMELEC has approved my proposal which is stated in the committee report. I think I will not be violating in confidence if I state that Executive Director de Lima himself told me that it was so approved and that my proposal was found to be beautiful—to use the Gentleman's own words—especially because each and every district in my proposal will contain one city.

I had been accused of gerrymandering—and I will now proceed to show why that is not so. But before I do that, I wish to state that my proposal results not only in contiguous, compact, and adjacent areas with respect to the municipalities mentioned in each of the districts: the residents of each and every district also have common sources of livelihood. For example, under my proposal, the first district consists of seacoast towns, the principal source of the livelihood of which is fishing, whether in the open sea or fishpond. The second district is composed of towns which are palay producing. The third district is composed of vegetable and fruit growing towns. As much as possible, Mr. Presiding Officer, the

²¹⁴ *Supra* note 192.

²¹⁵ *Id.* at 961-962.

²¹⁶ *Id.*

general direction of these districts [is] all from east to west, from where the sun shines to the place where the sun sets.

Let me go to the first district. The first district will consist of the towns of Bacoor, Kawit, Noveleta, Rosario, and Cavite City. From the municipal building of Bacoor to the municipal building of Rosario, there are barely 25 kilometers in distance; and from the municipal building of Bacoor to the municipal hall of Cavite City, it is barely 20 kilometers in distance. Each and [every one] of these towns are contiguous to each other, separated only by about 10-meter wide rivers. For example, the town of Bacoor is separated from the town of Kawit by a 10-meter wide river, the so-called Bacoor River; the town of Kawit is separated from Noveleta by a three-meter wide river; the town of Noveleta is separated from Cavite City by a three-meter river; the town of Noveleta is separated from Rosario by another three-meter wide river.

I do not think those are objections to the adjacentness or contiguousness of these territories.

Now, with respect to the second district, the town of Imus is not separated by any river with the town of Dasmarinas, neither is the town of Dasmarinas separated by any river from the town of General Alvarez, although there is a very narrow river between Carmona and Dasmarinas. The town of General Trias is not separated by any river nor is the town of Tanza. The city of Trece Martires is not separated by any river from its adjacent territories. The distance from Carmona to Tanza or Trece Martires is barely 70 kilometers; from the town of Carmona to the town of Dasmarinas is barely 40 kilometers; from the town of Dasmarinas to Trece Martires and Tanza is barely 30 kilometers. It has been stated by the oppositor that the distance between them is about 200 kilometers. It is not true. As I have said, the distance is only barely 70 kilometers. It is also alleged that the road there is unpaved and a hinterland. Apparently, the latest development in that place is unknown to the oppositor. Residents of Manila and Makati areas who wish to go to Matabunkay beach in Batangas pass through Carmona up to Dasmarinas and from Dasmarinas, they go upward through Silang Tagaytay, etcetera. It is not really a hinterland. As a matter of fact, there are about a thousand small toilets built in Carmona by the previous administration.

In the third district, Silang and Tagaytay are not connected by any river. They are contiguous, without any boundary line, without any natural boundary between them. From Tagaytay, you have to go down to Mendez Nunez, there is no river. But if you proceed farther west from Tagaytay, you will reach Alfonso without any

river. Then from Alfonso, you can go to Bailen and then to Magallanes. From Mendez Nunes to Indang, there is a small bridge, it has a sort of a ravine but there is no river. From Naic, you go farther west to Maragondon, branch to the right on the way to that resort place, Puerto Azul; they are all highlands and there are no rivers. And instead of going to Ternate, you go a little farther west, you will be reaching Maragondon, where there is no river.

The distance from Silang, Cavite to Naic, for example, is about 25 kilometers. From Naic to Maragondon and Ternate, it is about 8 kilometers. If you want to go to Alfonso, passing through Tagaytay, it is about 10 to 15 kilometers. But they are all good roads. The road to the town of Magallanes, which used to be isolated from civilizations before martial law, is now concrete. So is the road from Naic to Maragondon, going to Puerto Azul and so is the road from Alfonso to Baylen. Of course, the road distance of the towns in the third district is quite long, but it could not be helped because they branch out. The towns do not go through one straight line.

I think that disposes of the charge that I was gerrymandering. In my proposal of August 4, 1986, which the COMELEC has approved, I did not state one reason, which is very, very important. My reason is that I did not want to picture as much as possible in the Record of the Constitutional Commission the unhappy state in which Cavite finds itself.²¹⁷

Commissioner Jamir went through the lengths of explaining the specific kilometric difference of distance between one municipality or city to another in each proposed legislative district.²¹⁸ It simply goes to show that the Constitutional Commission avoided any existence of gerrymandering in the apportionment of the legislative districts, and did not tolerate the existence of such.

Thus, it is clear that gerrymandering was intended to be avoided in the apportionment of legislative districts. However, the current state of underrepresentation in some of the legislative districts has been utilized by opportunistic representatives. The existence of underrepresentation is primarily caused by the passage of piecemeal legislation that does not take into account the increase in population of all districts.

This is aptly demonstrated in the case of *Aquino*, where underrepresentation in the province was utilized by politicians in furthering

²¹⁷ *Id.*

²¹⁸ *Id.*

their own political interests. In analyzing the political context of this case, the timing and the questionable result of the reapportionment was intended to accommodate Dato Arroyo, who sought to avoid a direct clash with the then returning district representative Ronaldo Andaya.²¹⁹ In the guise of compliance with the constitutional mandate of a uniform and progressive ratio as a standard of apportionment, the true intent of the reapportionment involved herein was political accommodation.

Piecemeal legislation that inevitably results in underrepresentation, which in turn makes gerrymandering possible, could not have been intended by the framers of the Constitution. As such, it is strict adherence to the uniform and progressive ratio rule, made possible only through the passage of a general reapportionment law, that could properly prevent its occurrence.

The practice of passing piecemeal legislation since the first apportionment in 1987 paved the way for the obliteration of the uniform and progressive ratio requirement. There are districts which are underrepresented while there are those that are overrepresented.

In theory, if the progressive ratio of 250,000 people for every district representative is complied with, and all existing districts entitled to an increase in the number of their district representatives are granted such entitlement through the passage of a law to that effect, there would be no question that the rule on uniform and progressive ratio would have been met. There would be no vacant seats that politicians could exploit to commit gerrymandering.

However, the reality the country faces is far from this. In the realm of legislative districting, politics always plays a major role.²²⁰ An entitlement of one district to an additional representative does not equate to the passage of a law that operationalizes this entitlement. As a consequence, only a select few districts reap the benefit of having an additional representative. The constitutional standard of uniform and progressive ratio presupposes that the inevitable increase in population for all cities and provinces is considered and accounted for. The regular passage of a general reapportionment law remedies the existing problems of gerrymandering and the departure from the uniform and progressive ratio hounding the sorry state of the country's legislative apportionments.

²¹⁹ Tiongson-Mayrina & Barrientos-Vallarta, *supra* note 36.

²²⁰ *Id.* According to Professor Ronald Mendoza, executive director of the Asian Institute of Management Policy Center, "piecemeal redistricting is often a very political process, and it is sometimes used to reward allies or fulfill bargains with politicians from different provinces."

C. Re-examining *Aquino* in Relation to *Mariano*

The problem of Congress' apportionment through piecemeal legislation started with the case of *Mariano*, where the Supreme Court made the following problematic statement:

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.²²¹

This case became the basis for Congress to increase the number of district representatives in cities to two despite their failure to reach the 500,000 population requirement. However, this reliance on *Mariano* is misplaced. As pointed out by Justice Carpio in his dissenting opinion in *Aquino*, the *Mariano* case did not deviate from the constitutionally mandated requirement of progressive ratio in increasing the number of district representatives, since at the time the increase was made, the National Census and Statistics Office (now the Philippine Statistics Authority) certified that the population of the Municipality of Makati was at 508,174.²²² However, the problem arose with the aforementioned statement in *Mariano* to the effect that a city whose population had exceeded 250,000 is now entitled to another district representative.

In *Aquino*, the subject House bill reduced the total population of the first district of Camarines Sur from 417,304 to 176,383. The Court justified its decision to rule that the subject House bill was constitutional by ruling that the 250,000 population requirement under Paragraph 3, Section 5 of Article VI of the Constitution applied only to cities,²²³ and that there is no

²²¹ *Mariano*, 242 SCRA at 222-223.

²²² *Aquino*, 617 SCRA at 668-669 (Carpio, J., dissenting).

²²³ *Id.* at 640.

constitutional provision which requires the same minimum population to compose a legislative district.²²⁴ To make matters worse, the majority opinion in *Aquino* miscited *Mariano*, and stated the increase in the number of district representatives in the Municipality of Makati was allowed despite only having a population of 450,000.²²⁵ Justice Perez, the *ponencia* of the *Aquino* case, interpreted the *Mariano* case in this regard:

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.²²⁶

Justice Carpio and Justice Carpio-Morales strongly dissented. For Justice Carpio, the majority opinion “wrecks havoc on the bedrock principle of our ‘democratic and republican State’ that all votes are equal.”²²⁷ He emphasized that under the Constitution, the standards for reapportionment to test any reapportionment bill should be limited to two: population and territory.²²⁸ Furthermore, Justice Carpio pointed out how the *Aquino* ruling effectively ignored the population standard, particularly the uniform and progressive ratio standard, in allowing legislative districts in the province to have less than 250,000 population.²²⁹

As for Justice Carpio-Morales, she likewise pointed out the apparent violation of the subject reapportionment bill to the uniform and progressive

²²⁴ *Id.*

²²⁵ *Id.* at 641.

²²⁶ *Id.*

²²⁷ *Id.* at 652-653 (Carpio, J., *dissenting*).

²²⁸ *Id.* at 659 (Carpio, J., *dissenting*).

²²⁹ *Id.* (Carpio, J., *dissenting*).

ratio rule,²³⁰ as well as the misinterpretation of the *ponencia* of the *Mariano* case.²³¹ Citing the records of the Constitutional Commission, it was shown that the framers of the Constitution used 250,000 as the minimum population requirement for all legislative districts.²³² In considering all the circumstances that surrounded the reapportionment of Camarines Sur, the resulting malapportionment partakes of gerrymandering.²³³

As previously discussed, it is true the Constitution does not provide for the progressive ratio, nor expressly provides for the minimum number of population for each legislative district. However, logic and simple mathematical analysis would show that a uniform and progressive ratio would be possible only if there is a minimum population requirement for every district representative. Any number that dramatically deviates from this minimum population number effectively renders impossible the establishment of a uniform and progressive ratio.

Using statutory construction, the provisions of the Constitution must be interpreted and reconciled together. In the case of *Philippine International Trading Corporation v. Commission on Audit*, the *ponencia* of which notably being Justice Perez, the Supreme Court laid down the following rule:

It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, i.e., that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment. Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law. The statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole. Consistent with the fundamentals of statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning.²³⁴

Applying this rule of statutory construction to the problem in *Aquino*, the Supreme Court should have interpreted the provision on the uniform and progressive ratio standard alongside the provision on the 250,000 population requirement. The framers of the Constitution could not have intended to

²³⁰ *Id.* at 676 (Carpio-Morales, J., *dissenting*).

²³¹ *Id.* at 673-674 (Carpio-Morales, J., *dissenting*).

²³² *Id.* at 676 (Carpio-Morales, J., *dissenting*).

²³³ *Id.* at 680 (Carpio-Morales, J., *dissenting*).

²³⁴ G.R. No. 189793, 621 SCRA 461, 469, Apr. 7, 2010.

impose the uniform and progressive ratio standard if its actual application would be impossible. Thus, the interpretation that would give life to the constitutional rules on apportionment is to consider 250,000 as the minimum population required for every legislative district, whether the legislative district is in a city or province. Moreover, it is not enough that it is only the first district of a city which is required to comply with the 250,000 population requirement. It must equally apply to all subsequent increase in the number of legislative representatives, again, for both cities and provinces. This interpretation gives due respect to the declared state principle that the Philippines is a democratic and republican State which places primacy on the equality of voting power.

D. General Reapportionment Law as the Constitutionally-Sound Approach to Redistricting

The failure to comply with the constitutional standard of a uniform and progressive ratio paved the way for gerrymandering and inequality among citizens. The only way to remedy these systemic problems is for Congress to finally pass a general reapportionment law.

Pragmatically, it is impossible to maintain the uniform and progressive ratio due to three factors, namely: *first*, the Constitution itself provides for the exception of provinces from compliance with the progressive ratio rule for its first district;²³⁵ *second*, there is an inevitable disproportionate increase in the population among provinces and cities which would result to the equally inevitable disturbance in the intended progressive ratio; and *third*, the constitutionally-permissible method of passing piecemeal legislation,²³⁶ which only selectively increases the number of representatives in a province or city without due regard to the population increases in other areas.

However, these instances are precisely what highlight the necessity of regularly passing a general apportionment law. All these factors lead to the unequal treatment of citizens, effectively depriving them their right to be equally represented in Congress. It also paved the way for opportunistic politicians to use underrepresentation as the vehicle to accomplish their gerrymandering intents.

²³⁵ CONST. art. VI, § 5(3). See also RECORD CONST. COMM'N 107 (Oct. 13, 1986), available at <https://www.officialgazette.gov.ph/1986/10/13/r-c-c-no-107-monday-october-13-1986/>

²³⁶ *Tobias*, 239 SCRA 106.

A regularly-passed and well-crafted general reapportionment law ensures that any drastic deviation from the uniform and progressive ratio caused by the abovementioned factors would not be too damaging as to revert back to the problems of gerrymandering and unequal treatment. It is also this law that reconciles the passage of piecemeal legislation with the democratic and republican nature of our government.²³⁷ The passage of such general reapportionment law allows Congress to fulfill its clear constitutional duty and also ensures compliance of all the constitutional standards of apportionments that are impossible to attain through mere piecemeal legislation.

VI. RECOMMENDATIONS

A. For Legislators

1. Pass a General Reapportionment Law Based on the 250,000 Standard

It is indeed possible to reconcile all the pertinent provisions of the Constitution to come up with an interpretation that gives life to the uniform and progressive ratio required by the Constitution. The only way for this to be done is by passing a general apportionment law. The following are the authors' recommended steps for computing the constitutionally-sound general reapportionment that should be applied by Congress.

First, using the most recent census, get the population of all provinces and the cities which have attained a 250,000 population. If the qualifying city is a component city, its population must be subtracted from the population of the province because the census includes component cities in determining the population of the province. On the other hand, if an independent component city or a highly urbanized city does not have a population of 250,000, it should be counted together with the province to which it would be appended.

Second, compute for the "entitlement" of each province using the 250,000 standard, taking into consideration that in the event the province has not yet reached the population of 250,000, it is still entitled under the Constitution to one representative.

²³⁷ CONST. art. II, § 1.

Third, compute the “entitlement” of all the cities on the basis of the 250,000 standard. A city with a population of 500,000 is entitled to two, a city with a population of 1,000,000 is entitled to four, so on and so forth.

Region III (Central Luzon)			
Province / City	Population	Entitlement	Notes
Bataan	760,050	3	
Bulacan	2,465,908	9	Excluding the cities of Malolos and San Jose Del Monte, which are entitled to their own districts for reaching 250,000 population.
Malolos City	252,074	1	
San Jose Del Monte City	574,089	2	
Nueva Ecija	1,849,230	7	Excluding Cabanatuan City which is entitled to its own district for reaching 250,000 population.
Cabanatuan City	302,231	1	
Pampanga	1,640,652	6	Excluding the cities of San Fernando, Angeles, and Mabalacat, which are all entitled to their own districts for reaching 250,000 population.
San Fernando	306,659	1	

Angeles City	411,634	1	
Mabalacat City	250,799	1	
Tarlac	1,023,534	4	Excluding Tarlac City which is entitled to its own district for reaching 250,000 population.
Tarlac City	342,493	1	
Zambales	823,888	3	Including Olongapo City despite being an HUC since Olongapo only has 233,040 population not entitled to its own district.
Aurora	214,336	1	Automatically entitled to one district as a province.

For purposes of illustration, the 2015 population is used as it is the most recent census. Following the three steps above, the total entitlement of all provinces and cities within Region III is 41 districts, as shown in the previous table. Forty-one is not very far from the ideal entitlements of Region III with a population of 11,218,777, which if divided by the 250,000 standard, would result in an ideal entitlement of 44.8 representatives. To reiterate, total adherence to the “ideal entitlement” is hindered due to limitations expressly provided for by the Constitution.

Applying the same set of principles in all provinces and cities, and across all regions in the Philippines, the following tally will be obtained:

Region	Total Population	Percentage of Region Population to Total Population	Ideal Entitlement (Total Population / 250,000)	Percentage Using Proposed Standard	Entitlement from Proposed Standard
NCR	12,877,253	12.75	51.51	13.03	46
CAR	1,722,006	1.71	6.89	1.98	7
I	5,026,128	5	20.1	5.1	18
II	3,451,410	3.42	13.81	3.68	13
III	11,218,177	11.2	44.87	11.61	41
IVA	14,414,774	14.27	57.66	13.03	46
IVB	2,963,360	2.93	11.85	2.83	10
V	5,796,989	5.74	23.19	5.95	21
VI	4,477,247	4.43	17.91	4.53	16
VII	6,041,903	5.98	24.17	5.95	21
VIII	4,440,150	4.4	17.76	4.25	15
IX	3,629,783	3.59	14.52	3.68	13
X	4,689,302	4.64	18.76	4.53	16
XI	4,893,318	4.85	19.57	4.82	17
XII	4,545,276	4.5	18.18	4.53	16
XIII	2,596,709	2.57	10.39	2.27	8
ARM M	3,781,387	3.74	15.13	3.68	13
NIR	4,414,131	4.37	17.66	4.53	16
			403		353

The table shows that the amount of ideal entitlement is 403, which is obtained by dividing the total population of 100,979,303 with the standard of 250,000. This means that, given the total population in the Philippines and without considering any other circumstances, the total number of district representatives (excluding party-list representatives) should be at 403—a 165-member increase from the composition of the 16th Congress in 2015. If compared with the entitlement from the proposed standard, which takes into consideration the three steps earlier laid down, the total entitlement is at 353 for the same population of 100,979,303. Looking at the table, the greatest discrepancy between the ideal entitlement and entitlement from the proposed standard can be found in Region IV-A, which stands at a total of 15 seats. The discrepancy is easily explained by the fact that Region IV-A is composed of highly populated cities exceeding the 250,000 threshold, but are still below 500,000. Examples of these are Calamba City (454,486), Dasmariñas City (659,109), and Sta. Rosa City (353,767). To reiterate, these discrepancies are brought by exceptions expressly allowed by the Constitution.

In totality, the table affirms the authors' thesis that a general reapportionment plan consistent with the constitutional standard of a uniform and progressive ratio and compliant with the nuances expressly provided for by the Constitution and its Ordinance *is* possible within the existing constitutional framework. If Congress had only the interest of people in mind and was intent on making sure that the provisions of the Constitution are upheld, then there is no reason not to pass a general reapportionment law which would result in the increase in districts.

Of course, logistics and funding are valid concerns; however, in this regard, it has to be remembered that the House of Representative has the power of the purse. Moreover, convenience has never been a valid excuse to not comply with the mandate of the Constitution.

2. Creation of a Committee on Apportionment

In the United States, the election clause of the Constitution grants state legislatures the power to redistrict. This often led to state legislatures abusing this right by engaging in gerrymandering.²³⁸ Because of this tendency, there grew a movement toward alternative approaches of map-drawing

²³⁸ *Arizona State Legislature v. Arizona Independent Redistricting Comm'n*, 129 HARV. L. REV. 191, 191 (2015).

through different types of redistricting commissions or advisory councils.²³⁹ One of these is an independent commission made up of members who are neither public officials nor current lawmakers and are selected through a screening process conducted by another independent entity.²⁴⁰ The members of the independent commissions are the ones who draw and approve the final maps.

The authors submit that a similar type of independent commission is necessary in this jurisdiction to prevent politics from interfering with an objective assessment and to ensure compliance with the constitutional mandate. Otherwise, a general reapportionment law would only end up like the unconstitutional Republic Act No. 3040.²⁴¹

3. *Amend Existing Laws on Sangguniang Panlalawigan Seats*

Presently, the governing law on *sangguniang panlalawigan* and *panlungsod* seats remain to be Republic Act No. 6636, as amended by Republic Act No. 6637²⁴² and Republic Act No. 7166²⁴³

Republic Act No. 6636, however, imposed a ceiling of 10 *sangguniang panlalawigan* seats for a first class province.²⁴⁴ It is important to note that Republic Act No. 6636 was enacted in 1987, when the population of the country was significantly less than what it is today.²⁴⁵ Hence, it is possible that the framers of the Constitution were not able to take into consideration the circumstance of when a provincial government would already be entitled to more than 10 districts. As earlier mentioned, a *sangguniang panlalawigan* member represents a specific district. As the number of representatives in the national

²³⁹ *Who Draws the Maps? Legislative and Congressional Redistricting*, BRENNAN CENTER FOR JUSTICE, at <https://www.brennancenter.org/our-work/research-reports/who-draws-maps-legislative-and-congressional-redistricting>

²⁴⁰ *Id.*

²⁴¹ See *Macias*, 3 SCRA 1.

²⁴² Rep. Act No. 6637 (1987), §§ 1-2.

²⁴³ Rep. Act No. 7166 (1991). An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations therefor, and for Other purposes.

²⁴⁴ Rep. Act No. 6636 (1987), § 4.

²⁴⁵ Karen Tiongson-Mayrina & Brenda Barrientos-Vallarta, *Even with more congressmen in 2016, many PHL areas still unrepresented*, GMA NEWS, Feb. 3, 2016, at <https://www.gmanetwork.com/news/news/specialreports/553824/even-with-more-congressmen-in-2016-many-phl-areas-still-unrepresented/story>. Philippine population has since jumped by 82% since 1986.

legislature is increased by increasing districts, it is only logical that the representatives in the provincial government should increase as well.

The same situation is not present for the *sangguniang panlungsod*. Republic Act No. 6636, as amended, takes into consideration the increasing number of districts in cities by providing for an additional eight members for every additional district.²⁴⁶ It is general enough to also contemplate a situation where a city would be entitled to more than 10 districts, as in the case of Quezon City which currently has a population of 3,000,000.

Thus, the authors recommend that Republic Act No. 6636 be amended by stating that in the event a province exceeds 10 districts, then each additional district would merit an additional seat in the *sangguniang panlalamigan*.

4. Amendment of the Constitution to Include a Fixed Standard for Uniform and Progressive Ratio for Cities and Provinces

A more permanent solution would be to amend the Constitution to prescribe that the uniform and progressive ratio would be achieved through a standard population of 250,000 for *both* provinces and cities. This would eliminate the confusion arising from the interpretation by the Court of Section 3 of the Ordinance and from the cases of *Mariano* and *Aquino*. Moreover, it cures the defect of how a different rule for cities and provinces results in a violation of the uniform and progressive ratio imposed by the Constitution, as well as the equal protection of the constituents.

The number of 250,000, of course, can be increased to reflect the intention of Representative Rodriguez, who recognizes that the standard of 250,000 would result to a drastic increase of number of legislators. This is something that the Philippine government may not necessarily be prepared for given the logistical concern in providing more offices in the House of Representatives as well as the additional cost for the compensation of the representatives and their staff.²⁴⁷

It must be pointed out that any legislative enactment which would prevent the members of Congress from exercising the entitlement in the

²⁴⁶ Rep. Act No. 6636 (1987), § 3.

²⁴⁷ Interview with Rep. Rodriguez at the House of Representatives (March 11, 2019); See also: Karen Tiongson-Mayrina & Brenda Barrientos-Vallarta, *Even with more congressmen in 2016, many PHL areas still unrepresented*, GMA NEWS, Feb. 3, 2016, at <https://www.gmanetwork.com/news/news/specialreports/553824/even-with-more-congressmen-in-2016-many-phl-areas-still-unrepresented/story>

current Constitutional framework would be unconstitutional. Hence, the House bill²⁴⁸ of Representative Rodriguez, which seeks to impose a 400,000 standard as basis²⁴⁹ for reapportionment, would not pass the test of constitutionality.

B. For the General Public: Contest the Constitutionality of Piecemeal Legislations Without a Prior General Reapportionment Law

The only way to reconcile all existing constitutional provisions is by enacting a general reapportionment law, which should be renewed within three years after every census, before allowing any piecemeal legislation. Thus, the authors submit that the ideal way to raise the points herein to the Supreme Court would be by questioning any of the piecemeal House bills filed in the present Congress once they are turned into law.

The easiest way to do this is for a person or a group (both with legal standing and, ideally, a constituent of the municipality involved)²⁵⁰ or a legislator from the House of Representatives²⁵¹ to file before the Court a petition for certiorari or prohibition to assail the constitutionality of the law. Nevertheless, the Court has ruled in several cases that the issue of constitutionality of reapportionment laws are of transcendental importance, effectively waiving the requirement for legal standing.²⁵² As mentioned in this paper, the constitutionality of legislative apportionment has been proclaimed by the Supreme Court as a justiciable controversy cognizable by Philippine courts;²⁵³ hence, a judicial pronouncement settling the issue is guaranteed.

VII. CONCLUSION

With this paper, the authors hope that they were able to demonstrate that the only barrier to compliance with the words, intent, and spirit of the Constitution is no other than Congress itself. While the authors also argued against the erroneous interpretation of the Constitution by the Supreme Court, these rulings should not prevent Congress from performing its constitutional mandate. Neither *Mariano* nor *Aquino* served as a barrier to the

²⁴⁸ H. No. 3743, 18th Cong., 1st Sess. (2019).

²⁴⁹ § 2.

²⁵⁰ *Macias*, 3 SCRA 1.

²⁵¹ *Id.* at 2-3.

²⁵² *Aquino*, 617 SCRA at 638-639.

²⁵³ *Bagabuyo*, 573 SCRA at 303, *citing Macias*, 3 SCRA 1.

enactment of a general reapportionment law following the uniform and progressive ratio prescribed by the Constitution.

Instead of recognizing the existence of malapportionment and their non-compliance with a clear constitutional mandate, Congress continues to feign ignorance and play politics to the detriment of the people it has sworn to represent. Tomorrow, it will be business as usual. Tomorrow, a new political deal will come into fruition. The present treatment of legislative apportionments in Congress will not fix itself, as representatives continue to benefit from the corrupt system.

The Supreme Court cannot isolate itself from the problem it helped create. Through its judicial pronouncements, it helped blur what was supposed to be clearly defined limitations within which Congress was to operate.

As early as 1961, the Court has already recognized the evil that is malapportionment, as well as its power to correct such wrongs when the proper case arises.

Needless to say, equality of representation in the Legislature being such an essential feature of republican institutions, and affecting so many lives, the judiciary may not with a clear conscience stand by to give free hand to the discretion of the political departments of the Government. Cases are numerous wherein courts intervened upon proof of violation of the constitutional principle of equality of representation.²⁵⁴

If anything has changed in the past 60 years, it is that the 1987 Constitution—determined to prevent another dictatorship violating the rights of the Filipino people—tasked the Supreme Court with the duty to “determine whether or not there has been a grave abuse of discretion [...] on the part of any branch or instrumentality of the Government.”²⁵⁵ Thus, now more than ever, the above-quoted words in *Macias* hold true.

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²⁵⁴ *Macias*, 3 SCRA at 7-8.

²⁵⁵ CONST. art. VIII, § 1.