

Do you know that on 11th August 2016 we will also be voting in a Referendum?

Yes, alongside the General Election!

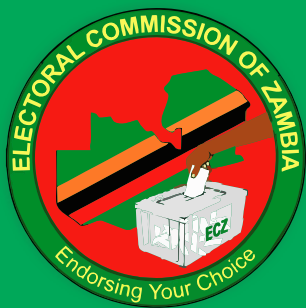


UNDERSTAND THE 2016 REFERENDUM.

YES OR NO?

“DO YOU AGREE TO THE AMENDMENT TO THE CONSTITUTION TO ENHANCE THE BILL OF RIGHTS CONTAINED IN PART 3 OF THE CONSTITUTION OF ZAMBIA AND TO REPEAL AND REPLACE ARTICLE 79 OF THE CONSTITUTION OF ZAMBIA”





Electoral Commission of Zambia

Understanding the 2016 Referendum

July 2016

Published in 2016

© Electoral Commission of Zambia. All Rights Reserved.

This Comic Book has been produced by the Electoral Commission of Zambia (ECZ). Any person or organisation interested in carrying out voter education in Zambia can use this comic book. No permission is required from the producer to use this comic book for purposes of voter education provided the copyright is acknowledged and respected and the guide is used to advance non-partisan and objective voter education.

This Comic Book is not for sale.

Electoral Commission of Zambia
P.O. Box 50274,
Lusaka,
Zambia.

Tel: +260 211 253 155/7

Fax: +260 211 253 884

+260 211 257 274

Email: elections@elections.org.zm

Website: www.elections.org.zm

Facebook:

<https://www.facebook.com/electoralcommissionofzambia/>

Twitter: [@zambiaelections](https://twitter.com/zambiaelections)

@zambiaelections

Contents

- 3: What are You Voting for in this Referendum?**
- 4: The Proposed Bill of Rights.**
- 5: Status, Application and Interpretation of The Bill of Rights**
- 6: Civil and Political Rights?**
- 7: Economic, Social, Cultural and Environmental Rights.**
- 8: Further & Special Rights.**
- 9: Non-derogable Rights and Freedoms, Limitations and Derogations.**
- 10: Enforcement of The Bill of Rights?**
- 11: Repeal & Replacement of Article 79**
- 12: Comparisons between the current Bill of Rights and the Proposed Bill of Rights**



WHAT ARE YOU VOTING FOR IN THIS REFERENDUM?

Referendum Question

“Do you agree to the amendment to the Constitution to enhance the Bill of Rights contained in part III of the Constitution of Zambia and to repeal and replace Article 79 of the Constitution of Zambia?”

What are you voting for in this Referendum?

According to the Constitution of Zambia, any alterations in the Bill of Rights and Article 79 requires that a referendum be held where citizens are expected to either accept or reject the question relating to the Bill of Rights and Article 79. The Bill of Rights is contained in part three of the Constitution of Zambia.

During this referendum, eligible citizens will vote to agree or disagree to:

- amend and enhance the Bill of Rights; and
- repeal and replace Article 79 of the Constitution of Zambia.

You vote either “Yes” or “No”.

If you vote “Yes”, it means that you are agreeing or accepting to the proposed amendments to the Bill of Rights and repealing and replacing of Article 7

If you vote “No”, it means that you want the current Bill of Rights and Article 79 to remain unchanged.

If the Referendum succeeds, the enhanced Bill of Rights and the revised Article 79 will be taken to Parliament for enactment into law.

What is being altered (amended) in the Bill of Rights?

- Civil and Political Rights.
These are provided for in the current Bill of Rights. In the proposed Bill of Rights, additional Articles have been included while others have been modified.

What will be new in the Bill of Rights?

- Economic, Social, Cultural and Environmental Rights;
- Further and Special Rights.

What is being proposed to be repealed and replaced in the Constitution of Zambia?

Article 79 of the Constitution of Zambia is being proposed for repealing.

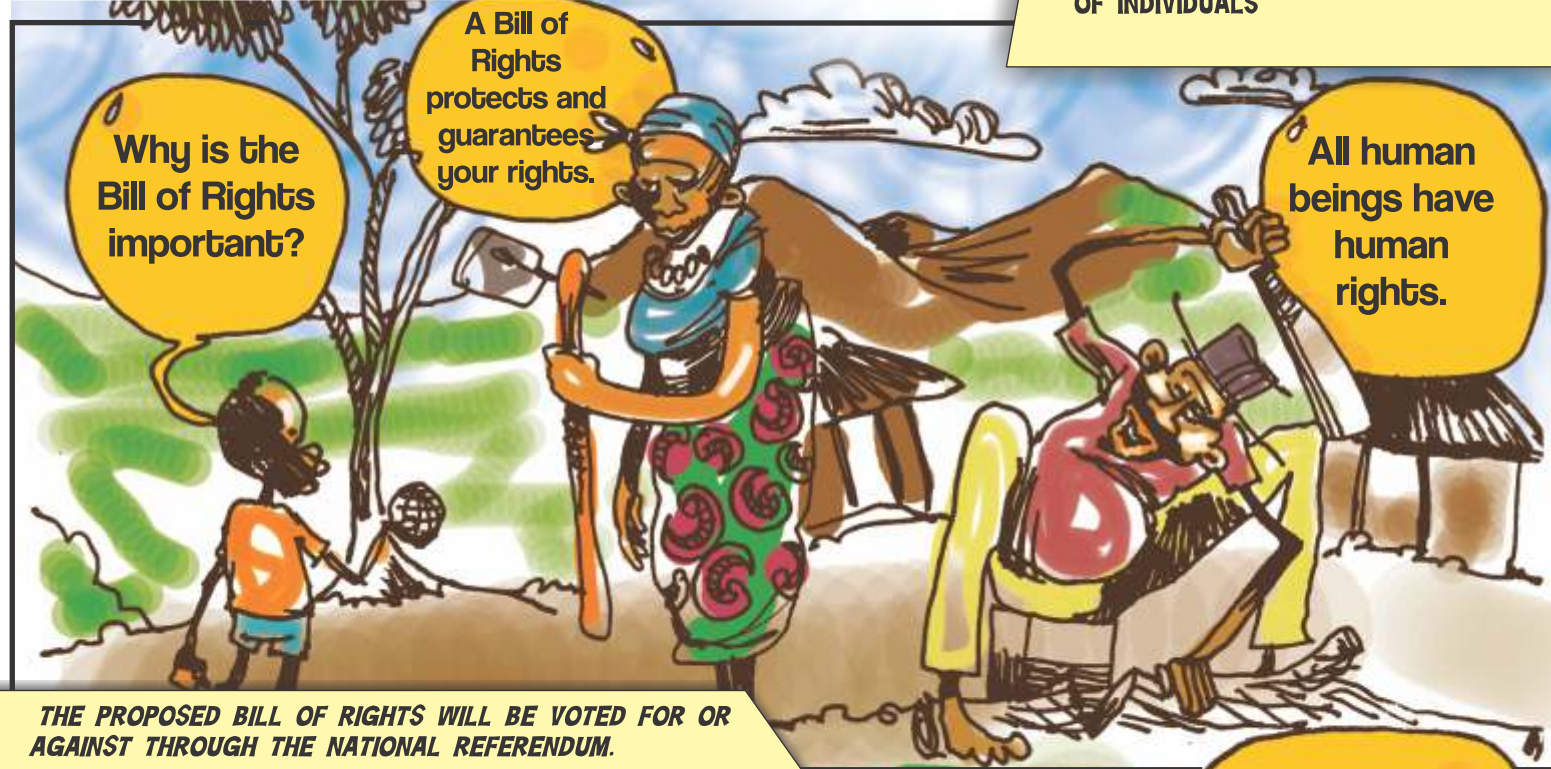
The proposal is to replace it with PART 19A (Articles 301 to 303) in the proposed Constitution of Zambia (Amendment) Bill, 2016.

Comparison between Article 79 of the current Constitution and proposed Articles 301 to 302 .

Article 79	Articles 301 – 303
<ul style="list-style-type: none"> • Process of amending the Constitution and the Bill of Rights 	<ul style="list-style-type: none"> • Process of amending the Constitution and the Bill of Rights
Amendments requiring referendum <ul style="list-style-type: none"> • Bill of Rights • Article 79 	Amendments requiring referendum; <ul style="list-style-type: none"> 1 - Supremacy of the Constitution 4- Sovereignty of the Republic 5 -Sovereign authority of the people of Zambia 47 -Electoral System for Presidential and Parliamentary 106-Tenure of office of the President and vacancy 110 -Vice Presidency election to office and swearing in 116 -Ministers (appointment, role and vacancy) 117 -Provincial Ministers (appointment, role and vacancy) Part 3 - Bill of Rights Article 301 and 302
Referendum threshold – 50% of eligible voters voting yes	303 – Referendum threshold – 50% of registered voters voting and more than 50% of the voters vote in favour
No Time frame	303 – Referendum to be held within 120 days after first reading of the bill
Requirement – Holder of green NRC and attained the age of 18	303 – Requirement – Registered voter

My Rights and... THE PROPOSED BILL OF RIGHTS.

THE BILL OF RIGHTS IS A SET OF LEGAL GUARANTEES THAT IS SET OUT WITHIN THE CONSTITUTION TO PROTECT FUNDAMENTAL RIGHTS AND FREEDOMS OF INDIVIDUALS

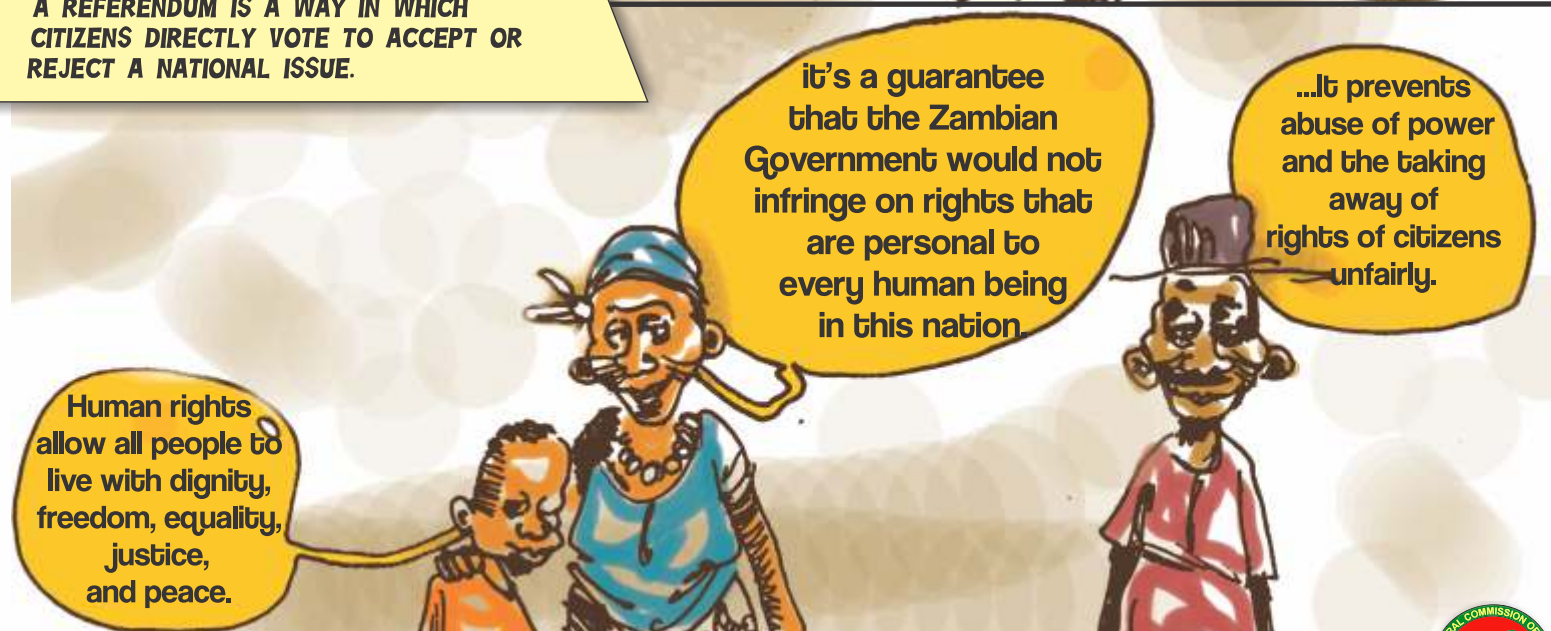


THE PROPOSED BILL OF RIGHTS WILL BE VOTED FOR OR AGAINST THROUGH THE NATIONAL REFERENDUM.



4

A REFERENDUM IS A WAY IN WHICH CITIZENS DIRECTLY VOTE TO ACCEPT OR REJECT A NATIONAL ISSUE.



DO YOU AGREE TO THE AMENDMENT TO THE CONSTITUTION TO ENHANCE THE BILL OF RIGHTS CONTAINED IN PART 3 OF THE CONSTITUTION OF ZAMBIA AND TO REPEAL AND REPLACE ARTICLE 79 OF THE CONSTITUTION OF ZAMBIA

ELECTORAL COMMISSION OF ZAMBIA



What is... STATUS, APPLICATION AND INTERPRETATION OF THE BILL OF RIGHTS

STATUS APPLICATION AND INTERPRETATION OF THE BILL OF RIGHTS STATES THAT THE PROPOSED BILL OF RIGHTS SHALL BE THE BASIS OF ZAMBIA'S SOCIAL POLITICAL, LEGAL ECONOMIC AND CULTURAL POLICIES AND STATE ACTION



THE RIGHTS AND FREEDOMS SET OUT IN THE PROPOSED BILL OF RIGHTS ARE SUBJECT TO LIMITATIONS DEROGATIONS AND RESTRICTIONS.



What are... CIVIL AND POLITICAL RIGHTS?

CIVIL AND POLITICAL RIGHTS ARE CONTAINED IN THE ZAMBIAN BILL OF RIGHTS. THESE ARE A CLASS OF RIGHTS THAT PROTECT INDIVIDUALS' FREEDOM FROM INFRINGEMENT BY GOVERNMENT, SOCIAL ORGANISATIONS AND PRIVATE INDIVIDUALS.



A person has the right of access to information held by the State or another person which is lawfully required for the exercise or protection of a right or freedom.

...We have the right to life...Life begins at conception

Men & women have equal rights.

A person has the right to access justice.



Freedom of expression association, movement and residence...

...to demonstrate or picket and present petitions to State organs and State institutions.

Women and men have an equal right to inherit, own, use, administer and control property.

...THEY ENSURE ONE'S ABILITY TO PARTICIPATE IN THE CIVIL AND POLITICAL LIFE OF THE SOCIETY AND STATE WITHOUT DISCRIMINATION OR REPRESSION.



protection from inhuman treatment and security of person, slavery, servitude and forced labour.

...A person shall not be discriminated against, except under a law that provides for affirmative action.

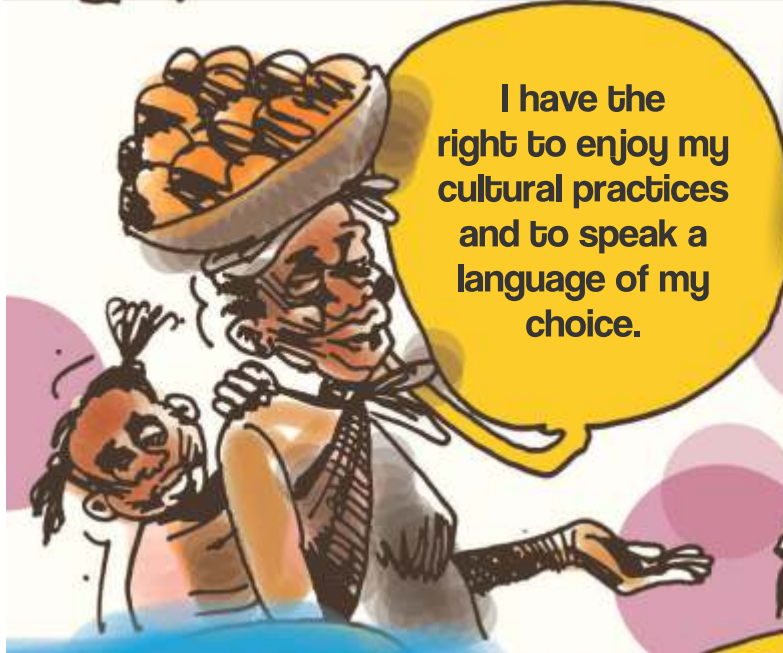
OTHER RIGHTS INCLUDE ACCESS TO INFORMATION, EQUALITY BEFORE THE LAW, FAIR TRIAL AND FREEDOM OF CONSCIENCE BELIEF AND RELIGION ETC.



What are... **ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS.**



SOCIAL, ECONOMIC AND CULTURAL RIGHTS ARE CONTAINED IN THE BILL OF RIGHTS AND GUARANTEE THAT EVERY PERSON BE AFFORDED CONDITIONS UNDER WHICH THEY ARE ABLE TO MEET THEIR NEEDS.



I have the right to goods and services of acceptable standard.

I have the right to compensation for loss from a defect in goods or services.

I have a right to safe, clean & healthy environment.

I have a right to emergency medical treatment.

I have a right to fair pay & decent working conditions.

CULTURAL RIGHTS RELATE TO ART AND CULTURE. THE OBJECTIVE OF THESE RIGHTS IS TO GUARANTEE THAT PEOPLE AND COMMUNITIES HAVE AN ACCESS TO CULTURE AND CAN PARTICIPATE IN THE CULTURE OF THEIR CHOICE. ENVIRONMENTAL RIGHTS ARE ABOUT THE PROTECTION OF NATURAL RESOURCES.

DO YOU AGREE TO THE AMENDMENT TO THE CONSTITUTION TO ENHANCE THE BILL OF RIGHTS CONTAINED IN PART 3 OF THE CONSTITUTION OF ZAMBIA AND TO REPEAL AND REPLACE ARTICLE 79 OF THE CONSTITUTION OF ZAMBIA



What are FURTHER & SPECIAL RIGHTS.

FURTHER AND SPECIAL RIGHTS ARE RIGHTS MEANT TO PROTECT THE INTERESTS OF OLDER MEMBERS OF SOCIETY, CHILDREN, YOUTHS AND PERSONS WITH DISABILITY. THEY FURTHER PROTECT THE RIGHTS RELATING TO MARRIAGE AND FAMILY



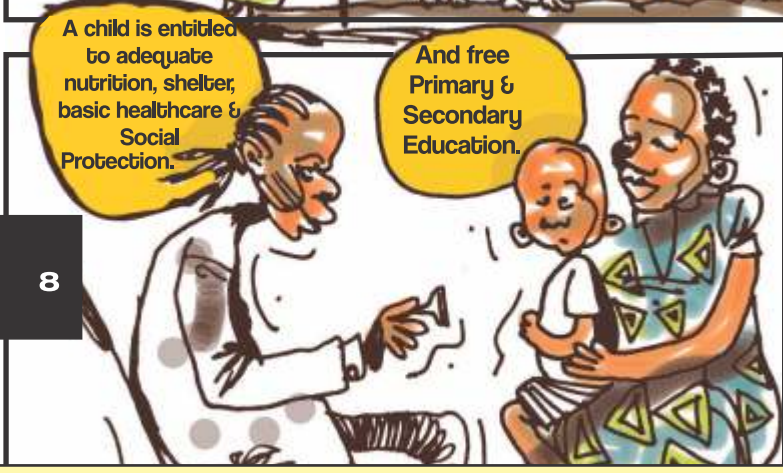
Older members of society can participate fully in affairs of society & are entitled to social protection.

I'm entitled to independent living and personal development.



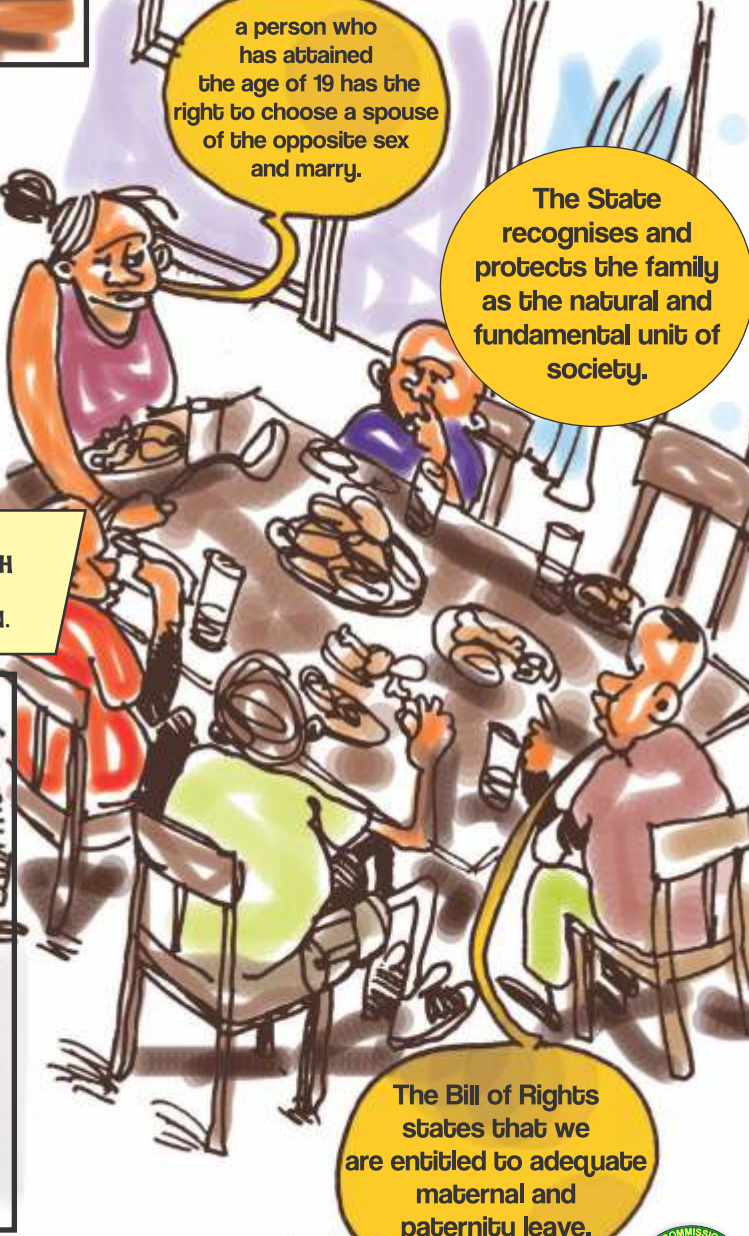
Youths are entitled to the right to participate in governance and access gainful employment

...And participate in social political economic and other spheres of national life.



A child is entitled to adequate nutrition, shelter, basic healthcare & Social Protection.

And free Primary & Secondary Education.



a person who has attained the age of 19 has the right to choose a spouse of the opposite sex and marry.

The State recognises and protects the family as the natural and fundamental unit of society.

OTHER FURTHER AND SPECIAL RIGHTS INCLUDE A PERSON SHALL NOT ENGAGE A YOUNG PERSON IN AN OCCUPATION OR EMPLOYMENT WHICH WILL PREJUDICE THE HEALTH, EDUCATION OR INTERFERE WITH THE PHYSICAL, MENTAL OR MORAL DEVELOPMENT OF THAT YOUNG PERSON.



Persons with disabilities have equal rights and opportunities in society.

PERSONS WITH DISABILITIES HAVE EQUAL OPPORTUNITIES IN CULTURAL, POLITICAL, ECONOMIC AND SOCIAL ACTIVITIES

The Bill of Rights states that we are entitled to adequate maternal and paternity leave.



What are... NON-DEROGABLE RIGHTS AND FREEDOMS, LIMITATIONS AND DEROGATIONS.

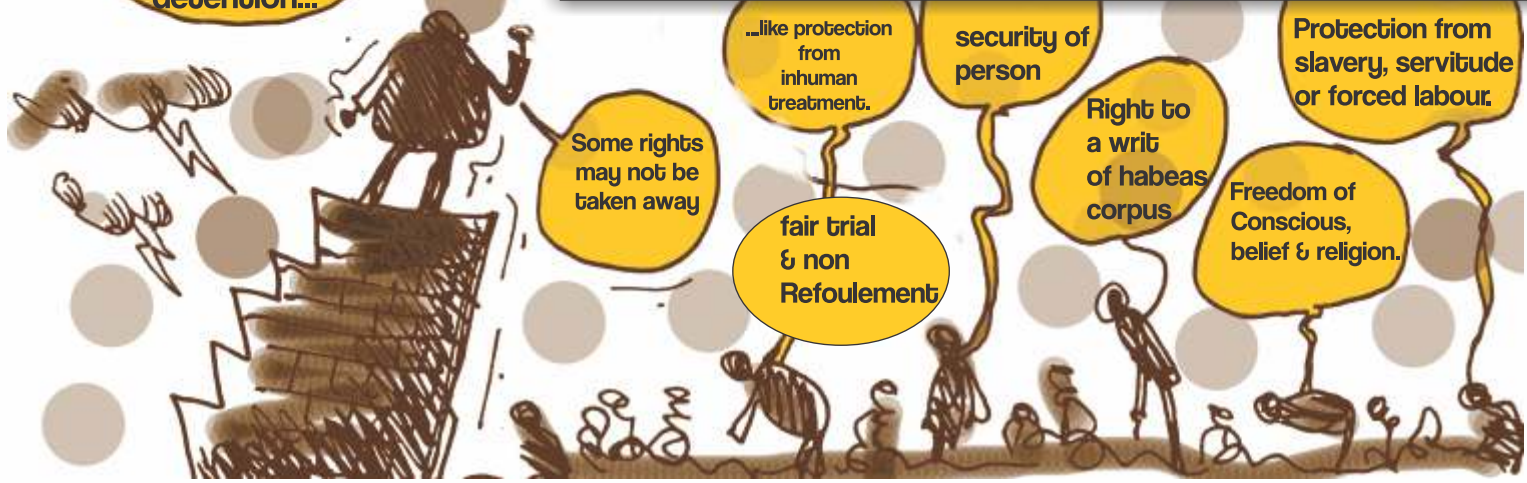
THE NON-DEROGABLE RIGHTS AND FREEDOMS, LIMITATIONS AND DEROGATIONS STATEMENT OF THE BILL OF RIGHTS EXPLAINS WHICH RIGHTS CAN NOT BE TAKEN AWAY FROM AN INDIVIDUAL AS WELL AS THE CONDITIONS UNDER WHICH RIGHTS CAN BE TAKEN AWAY FROM AN INDIVIDUAL. IT ALSO STATES THE LIMITATIONS ACCORDED TO INDIVIDUAL RIGHTS.



TO DEROGATE IS TO TAKE AWAY RIGHTS FROM INDIVIDUALS IN EXCEPTIONAL CIRCUMSTANCES LIKE WAR OR A STATE OF EMERGENCY IN THE PUBLIC INTEREST.



LIMITATION CLAUSES IN THE BILL OF RIGHTS ENABLES CONSTITUTIONAL RIGHTS TO BE PARTIALLY LIMITED, TO A SPECIFIED EXTENT AND FOR CERTAIN LIMITED AND DEMOCRATICALLY JUSTIFIABLE PURPOSES, WHILE PROHIBITING RESTRICTIONS THAT ARE HARMFUL TO DEMOCRACY BY REASON ON THEIR PURPOSE, NATURE OR EXTENT.



NON-DEROGABLE RIGHTS AND FREEDOMS PERTAINS TO RIGHTS THAT CANNOT BE TAKEN AWAY FROM CITIZENS REGARDLESS OF THE CIRCUMSTANCE.

DO YOU AGREE TO THE AMENDMENT TO THE CONSTITUTION TO ENHANCE THE BILL OF RIGHTS CONTAINED IN PART 3 OF THE CONSTITUTION OF ZAMBIA AND TO REPEAL AND REPLACE ARTICLE 79 OF THE CONSTITUTION OF ZAMBIA

ELECTORAL COMMISSION OF ZAMBIA



What is... ENFORCEMENT OF THE BILL OF RIGHTS?

ENFORCEMENT OF THE BILL OF RIGHTS RELATES TO HOW A PERSON CAN SEEK REDRESS IN THE COURTS OF LAW DUE TO CONTRAVENING OF THE BILL OF RIGHTS OR VIOLATION OF ANOTHER PERSONS RIGHTS AND FREEDOMS.

...The government took the following measures in the realisation of the Bill of Rights...



The state shall take reasonable measures for the progressive realisation of Rights.

THE PRESIDENT SHALL, EACH YEAR, WHEN ADDRESSING THE NATIONAL ASSEMBLY, REPORT ON THE MEASURES TAKEN BY THE STATE IN THE REALISATION OF THE BILL OF RIGHTS.

I can seek redress in the constitutional court or another court if the Bill of Rights has been contravened.

The decision of the Constitutional Court is final and cannot be appealed.

10

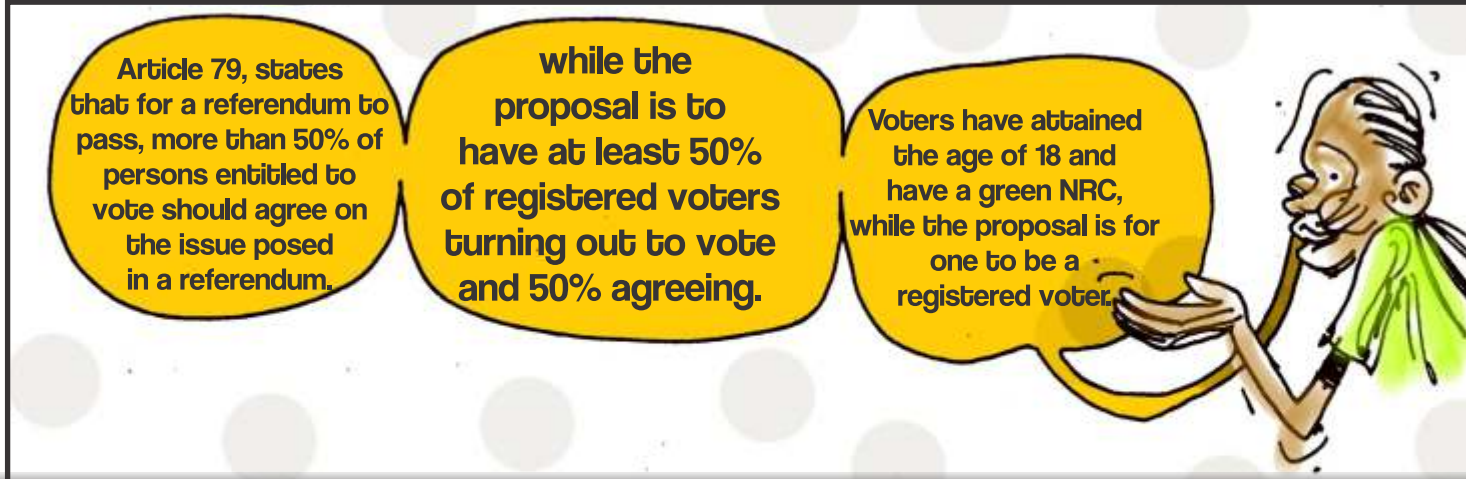
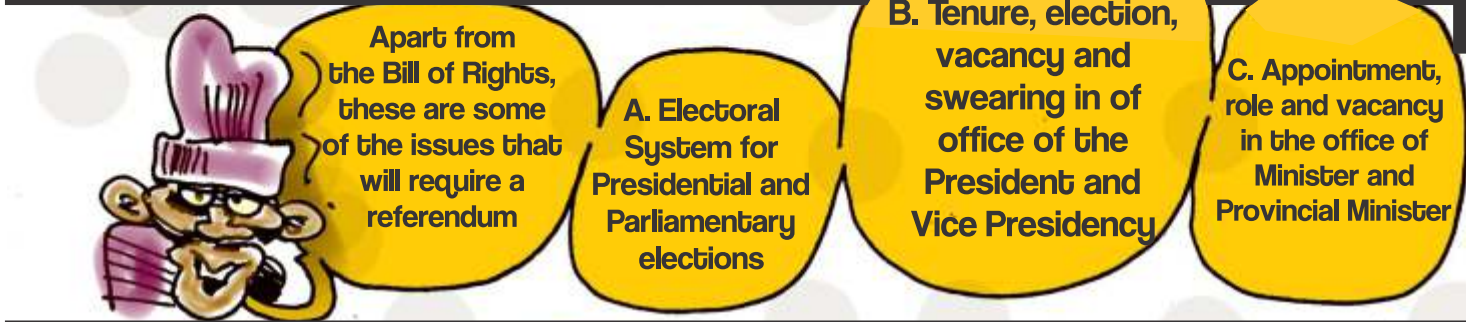
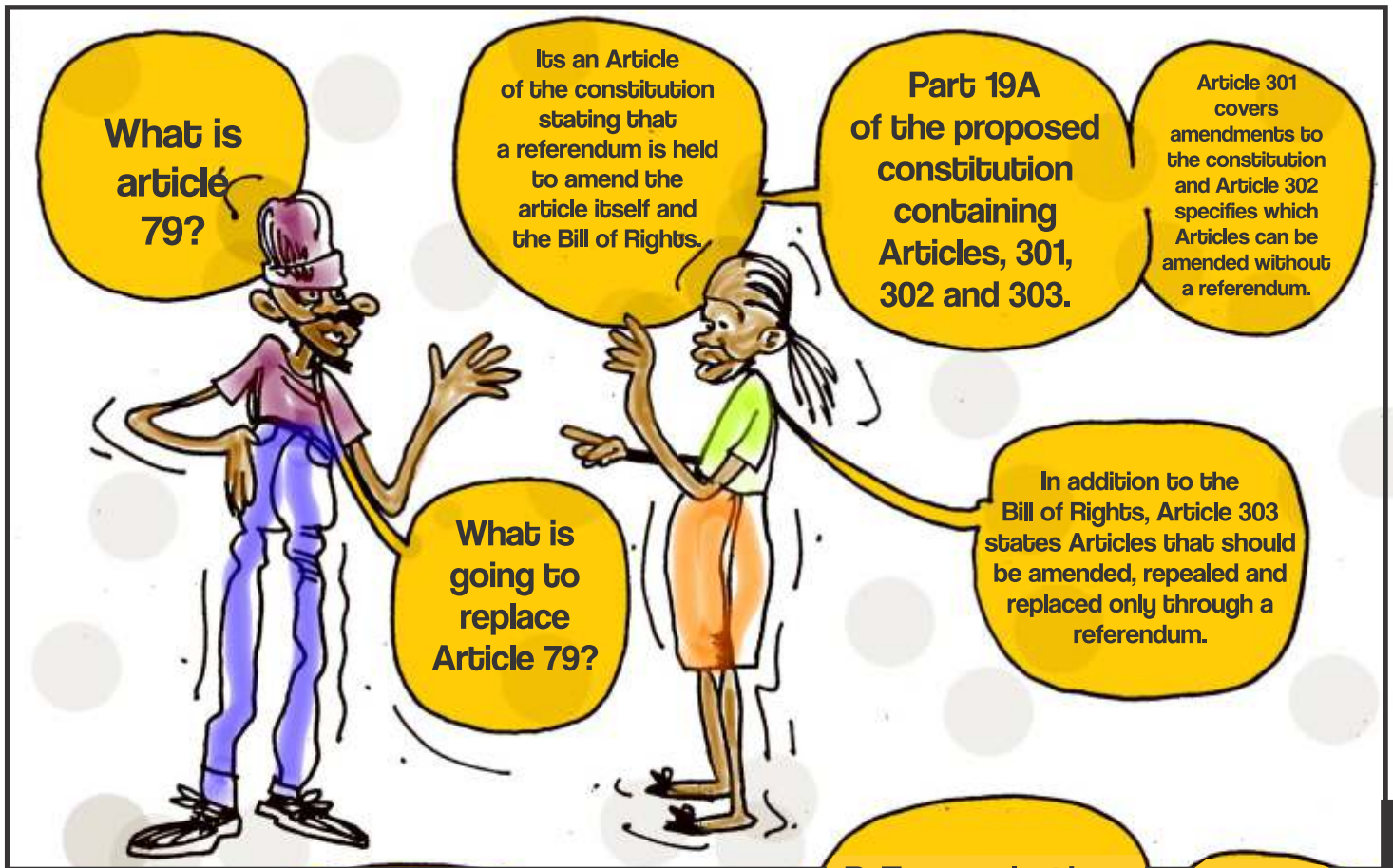


Or another court that I may have immediate access to.

A person may bring an action against the violation of another person's rights and freedoms

Oh, so if I see my neighbour abusing a dependent I can take action!

REPEAL & REPLACEMENT OF ARTICLE 79



ARTICLE 79 DOES NOT SPECIFY A TIMEFRAME IN WHICH TO HOLD A REFERENDUM WHILE THE PROPOSAL IS TO HOLD A REFERENDUM WITHIN 120 DAYS.

Know...

- The current and proposed Bill of Rights
- Article 79 and the proposed Articles 301, 302 and 303

*Note that the column for the current Articles are aligned with the proposed articles that are of a similar nature. Where there is no similarity or comparison, the word 'none' is used.

Civil and Political rights	
Current Articles	Proposed Articles
11 a Summary of fundamental Civil and Political Rights	11 a Status and application of the Bill of Rights 12 a Recognition of the role of Civil Society Organisation 13 a Development of further human rights laws and cases Interpretation of the Bill of Rights
12 (2) a a person may deprive an unborn child of life in exceptional circumstances	15 (1) The life of a person begins at conception
13 a Protection to right to personal liberty	16 a Freedom of person 32 a Access to justice 33 a Rights of suspects 34 a Rights of persons in custody 35 a Rights of accused persons and detainees
14 a Protection from slavery and forced labour with exceptions	18 a No exceptions on provisions amounting to forced labour
15 a Protection from inhuman treatment	17 a Security of persons and protection from inhuman treatment including human trafficking
16 a Protection from deprivation of property with exceptions	29 a No exceptions on provisions on acquisition of property
17 a Protection of privacy of home and other property with exceptions	19 a Protection of privacy of home and other property without exceptions
18 a Provisions to secure protection of law	30 a Equality before the law 31 a Fair administration 32 a Access to justice 33 a Rights of suspects 34 a Rights of persons in custody 35 a Rights of accused persons and detainees 36 a Fair trial 37 a Right to re-trial and re-examination of evidence
19 a Protection of freedom of conscience	20 - Freedom of conscience, belief and religion
20 a Protection of Freedom of Expression	21 a Freedom of Expression
21 a Protection of Freedom of Assembly and Association	25 a Freedom of Association 26 a Right to assemble, demonstrate, picket and petition
22 a Freedom of movement	27 a Freedom of movement and residence
23 a Protection from discrimination on the ground of race, etc	14 a Protection from discrimination
24 a Protection of young persons from exploitation	50 - Further protection of young persons
25 a Derogation from fundamental rights and detention	55 a Derogation of rights and freedoms during emergency or national disaster
26 a Provisions relating to restriction and detention	34 a Rights of persons in custody 35 a Rights of accused persons and detainees 36 a Fair trial
27 a Reference of certain matters to special tribunals	34 (3) Relief of <i>habeas corpus</i> specified
28 a Enforcement of protective provisions High Court	57 a Enforcement of the Bill of Rights • Constitutional Court 58 a President report on the state of human rights to Parliament annually
29 a Declaration of war	198 a Declaration of war
30 a Declaration of public emergency	199 a Declaration of state of public emergency and threatened state of public emergency • President in consultation with cabinet
31 a Declaration relating to threatened emergency • Act of Parliament	
32 - Interpretation None	303 (6) & 266 of 2016 constitution a further interpretation 22 a Access to information 23 a Freedom of media 28 a Non a refoulement for asylum seekers and refugees 38 a Equality of both gender
Economic, Social, Cultural and Environmental Rights	
None	39 a Economic and Social Rights
None	40 a Choice of Trade, Occupation or Profession
None	41 a Labour Relations
None	42 a Consumer Rights
None	43 a language, Culture and Intellectual Property Rights
None	44 a Environment
None	45 a Progressive Realisation of Economic, Social, Cultural and Environmental Rights
Further and Special Rights	
None	46 a Further rights for older members of society
None	47 a Further protections and rights relating to marriage and family
None	48 a Special and further rights for children
None	49 a Further rights for youth
24 a Protection of young persons from exploitation	50 a Further protection of young person
None	51 a Further rights for persons with disabilities
Article 79	
Process of amending the constitution and the BoR	Articles 301 a 303 Process of amending the constitution and the BoR
Amendments requiring referendum	Amendments requiring referendum;
<ul style="list-style-type: none"> • Bill of Rights • Article 79 	1 - Supremacy of the Constitution 4- Sovereignty of the Republic 5 -Sovereign authority of the people of Zambia 47 -Electoral System for Presidential and Parliamentary 106 - Tenure of office of the President and vacancy 110 - Vice Presidency election to office and swearing in 116 - Ministers (appointment, role and vacancy) 117 - Provincial Ministers (appointment, role and vacancy) Part 3 - Bill of Rights Article 301 and 302
Referendum threshold a 50% of eligible voters voting yes	303 a Referendum threshold a 50% of registered voters voting and more 50% of vote in favour
No Time frame	303 a Referendum to be held within 120 days after first reading of the bill
Requirement a Holder of green NRC and attained the age of 18	303 a Requirement a Registered voter