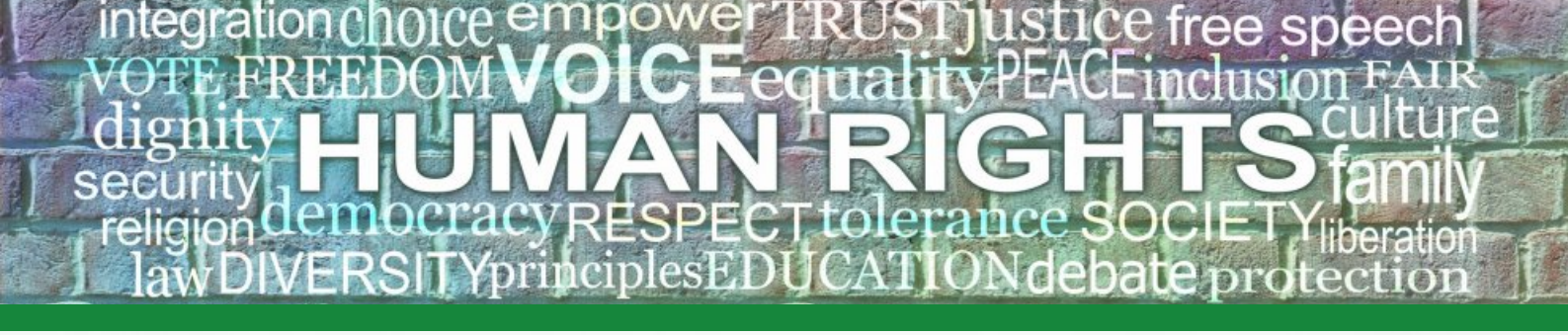
KNOW YOUR HUMAN RIGHTS & ACCEPT YOUR RESPONSIBILITIES

FALKLAND ISLANDS CONSTITUTIONAL REVIEW 2023

Building a culture of Human Rights...

Issued by Law & Regulation Directorate
for Gilbert House



WHAT ARE HUMAN RIGHTS?

HUMAN RIGHTS:

- are the basic rights and freedoms that belong to every person in the world, from birth until death.
- are the foundation of freedom, justice and peace.
- do not have to be bought, earned or inherited, they belong to people simply because they are human beings.
- apply regardless of where you are from, what you believe or how you choose to live your life.
- can never be taken away, although they can sometimes be restricted – e.g. if they are limited in the interests of national security.
- are based on shared values like dignity, fairness, equality, respect and independence. These values are defined and protected by law.

In the Falkland Islands our human rights are mainly protected by the Constitution (the supreme law of the land), but also by some other laws.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

- is a historic document which outlines the rights and freedoms everyone is entitled to;
- is the first international agreement on the basic principles of human rights;
- lays the foundation for the human rights protections that we have today; and
- formed the basis of the European Convention on Human Rights.

DID YOU KNOW?

The fundamental rights and freedoms as contained in the Constitution are based on the European Convention on Human Rights.

Some of the rights in the Constitution are "absolute" rights – which means that they are not restricted. These rights are:

- freedom from torture– section 3;
- freedom from slavery– section 4; and
- freedom from inhumane and degrading treatment of prisoners– section 7.

Other rights are "qualified" rights – which means they can be restricted in certain circumstances, e.g. if the restriction is authorised by law, that it is necessary for a legitimate purpose (such as protection of public health).

KNOW YOUR RIGHTS

Chapter 1 of the Constitution sets out certain "fundamental rights and freedoms", and the framework within which these operate.

FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL s1

Every person in the Falkland Islands is entitled to the protections afforded by the Constitution.
Emphasises the importance of the right to self-determination – for the people of the Falkland Islands to determine their political status and freely pursue their economic, social and cultural development.

PROTECTION OF RIGHT TO LIFE s2*

You have the right to life.
However, this right will not be violated if you die as a result of the use of force, as permitted by law, e.g. when defending any person from violence, in order to effect lawful arrest or for purposes of suppressing a riot or if you die as the result of a lawful act of war.

PROTECTION FROM INHUMAN TREATMENT s3

You have the right to human dignity. No one ever has the right to hurt you or torture you.

PROTECTION FROM SLAVERY AND FORCED LABOUR s4

You have a right to freedom from slavery and forced labour.

PROTECTION OF RIGHT TO PERSONAL LIBERTY s5

You have the right to liberty. If you are arrested, you have the right to know why. If you are arrested you have the right to stand trial soon, or to be released until the trial takes place.

PROVISIONS TO SECURE PROTECTION OF LAW s6

You have the right to a fair trial before an unbiased and independent judge. If you are accused of having committed a crime, you are innocent until proven guilty. You have the right to be assisted by a lawyer who must be paid by the state if you are poor.

KNOW YOUR RIGHTS

PROTECTION OF RIGHTS OF PRISONERS TO HUMANE TREATMENT s7

Even in detention your human dignity has to be respected and you have the right to be treated humanely.

PROTECTION OF FREEDOM OF MOVEMENT s8*

You have the right to freely move in the Falkland Islands and the right to enter and leave Falkland Islands at will.
However, this right does not apply if the law allows restrictions to be imposed- on people who do not belong to the Falkland Islands, or for public safety, internal security, public order, public health, etc

PROTECTION FOR PRIVATE AND FAMILY LIFE AND FOR PRIVACY OF HOME AND OTHER PROPERTY s9*

You have the right to respect for your private and family life, your home and correspondence. This right is limited to the extent that it is done under the authority of a law, e.g. if limited for purposes of enforcing criminal, customs or immigration law.

PROTECTION OF RIGHT TO MARRY AND FOUND A FAMILY s10*

You have the right to marry and to have a family.

PROTECTION OF FREEDOM OF CONSCIENCE s11*

You have the right to freedom of thought, conscience, and religion. You have the right to practise your religion at home and in public and to change your religion if you want.

PROTECTION OF RIGHT TO EDUCATION s12

Every child has a right to receive free primary education unless the parent or legal guardian wants the child to receive private schooling at the expense of that parent or legal guardian.

KNOW YOUR RIGHTS

PROTECTION OF FREEDOM OF EXPRESSION s13 *

You have the right to responsibly say and write what you think and to give and receive information from others. This includes freedom of the press.

PROTECTION OF FREEDOM OF ASSEMBLY AND ASSOCIATION s14 *

You have the right to take part in peaceful meetings and to set up or join associations including trade unions.

PROTECTION FROM DEPRIVATION OF PROPERTY s15*

You have the right to own, use or dispose of your lawfully acquired property.

PROTECTION FROM DISCRIMINATION s16*

You have a right to be free from discrimination on the basis of your skin colour, sex, sexual orientation, race, national or social origin, language, political or religious beliefs or association with a minority.

DEROGATIONS FROM FUNDAMENTAL RIGHTS AND FREEDOMS UNDER EMERGENCY POWERS s17

In time of war or other public emergency, the government may do things which go against your rights, but only when strictly necessary. Even then the government is not allowed to torture or kill you arbitrarily.

PROTECTION OF PERSONS DETAINED UNDER EMERGENCY LAWS s18

This section sets out procedural safeguards when persons are detained under emergency laws.

KNOW YOUR RIGHTS

ENFORCEMENT OF PROTECTIVE PROVISIONS s19

You can defend your rights in the Supreme Court, as you have a direct access to this court for redress should you feel that your rights have been violated.

This right may be limited by a law to the extent where such law restricts the right for purposes of, e.g. protecting the reputation and rights of other persons, for internal security, or public interest, restricting entry into the Falkland Islands by foreign nationals, etc.

For additional information please visit:
https://www.falklands.gov.fk/assembly/the-constitution/select-committee

QUESTIONS TO THINK ABOUT...

Do you think that your human rights are adequately protected?
Should other rights be protected under the Constitution?
Should the right to education be extended?
Do you think that there is a proper balance between:
individuals' rights;
personal responsibility;
the public interest?

Please submit your views on the 2023 Constitutional review to the Select Committee by:

contacting any one of your MLAs by calling Gilbert House on 27451, or
emailing: constitutionalreview@sec.gov.fk