

[Courseware \(/courses/LouvainX/Louv2.01x/1T2014/courseware\)](/courses/LouvainX/Louv2.01x/1T2014/courseware)

[Course Info \(/courses/LouvainX/Louv2.01x/1T2014/info\)](/courses/LouvainX/Louv2.01x/1T2014/info)

[Discussion \(/courses/LouvainX/Louv2.01x/1T2014/discussion/forum\)](/courses/LouvainX/Louv2.01x/1T2014/discussion/forum)

[Wiki \(/courses/LouvainX/Louv2.01x/1T2014/course\\_wiki\)](/courses/LouvainX/Louv2.01x/1T2014/course_wiki)

[Progress \(/courses/LouvainX/Louv2.01x/1T2014/progress\)](/courses/LouvainX/Louv2.01x/1T2014/progress)

[Reading Materials \(/courses/LouvainX/Louv2.01x/1T2014/pdfbook/0/\)](/courses/LouvainX/Louv2.01x/1T2014/pdfbook/0/)

[Syllabus \(/courses/LouvainX/Louv2.01x/1T2014/3517b9300b554b118f11224b8c05eb10/\)](/courses/LouvainX/Louv2.01x/1T2014/3517b9300b554b118f11224b8c05eb10/)

Help

Most human rights can be subjected to certain restrictions, provided (i) such restrictions as may be imposed are in the public interest, (ii) are applied transparently and in accordance with the law, and (iii) are the least restrictive possible of the rights of the individual.


Some human rights are "absolute", however: rights such as the right to life, the prohibition of torture or of arbitrary detention cannot be subject to limitations, even where there would be otherwise compelling reasons to do so. For instance, deportation of foreigners to countries where there is a real risk that they will be subject to torture or ill-treatment cannot be allowed, even if their presence on the territory represents a risk to the national security of the country where they are staying.

This section has discussed in detail the different conditions under which limitations could be imposed on human rights:

1. In order to justify that a limitation is being imposed on a right, the State must be able to put forward **legitimate reasons for doing so**. Such reasons may relate to the maintenance of the public order, to public security, public morals or public health; to the preservation of the rights and freedoms of others; etc.
2. The second condition that restrictions to human rights must comply with is that such restrictions must be **"in accordance with the law"**. This goes beyond the simple requirement that the restriction must not violate the law. It also means that the regulatory framework under which the restriction is imposed must present certain characteristics, to ensure adequate transparency and provide for certain procedural guarantees: it is sometimes said that the law must be of adequate "quality".
3. The third requirement which a restriction to human rights must comply with, if it is to be acceptable, is that **the restriction does not go beyond what is necessary** for the fulfilment of the objective by which it is justified. In fact, most human rights claims fail, or succeed, based on this condition.



  
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