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[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

As already noted, "absolute" rights are the exception. Most human rights can be restricted, if three conditions are satisfied cumulatively :

1. the State can put forward strong reasons to do so, that are related to the role of the State to pursue the general interest (condition of *legitimacy*);
2. the restriction is imposed in ways that are transparent and not arbitrary (condition of *legality*: the restriction is "in accordance with the law"); and
3. the restriction is not excessive (condition of *proportionality*: the restriction must not go beyond what is required for the fulfilment of the legitimate aim pursued).

We focus in this sub-section on the first of these conditions. 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.

In some cases, the relevant provisions of human rights treaties list exhaustively the acceptable grounds for restricting human rights. In other cases, they use a broad expression, such as "public welfare", to refer to the same broad requirement. The key idea is that restrictions to human rights should only be allowed if there is an objective, generally acceptable reason for doing so, in other terms if the restriction is not imposed merely out of convenience or, even worse, for arbitrary reasons or, for instance, because a particular group is disliked by the authorities or certain opinions considered not to be welcome.



# Introduction to Limitations of Human Rights

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## Help