

Legitimate limitations?

Length		30 minutes
Difficulty		Intermediate
Group size		Small to medium
Aim	To help participants digest knowledge received in theoretical presentations on legitimate limitations on FORB	
Description	A plenary discussion exercise in which participants use the knowledge they have learned to assess whether concrete examples of limitations to freedom of religion or belief are legitimate or not.	
Materials	Hand-outs with rules for determining legitimate limitations Questions for discussion either on power-point or on handouts	
Source	SMC	

Tips for facilitators

This exercise should be preceded by a theoretical introduction to the legitimate limitations of Freedom of religion or belief (FORB), for example viewing Film 8 Limitations. During the full group discussion it is important that the facilitator/trainer is confident enough in their knowledge of FORB to be able to answer questions that the group might have in relation to legitimate limitations on FORB. This session might also require that the following concepts are explained to the participants:

- Absolute rights as compared to rights that can be limited
- Non-derogable rights
- The margin of appreciation
- Differences between human rights as the rights of every individual and the rights that a group of individuals can claim from the state government as a collective

The exercise can be held either in a full group or in smaller beehives who afterwards are given the task to report back to the full group and the facilitator.

Outline and instructions

Give out the hand-outs on rules for determining whether limitations are legitimate or not. Using power-point or hand-outs, present the four different cases on limitations provided below (or your own examples) and discuss whether the limitations are legitimate or not. Why do participants think some limitations are legitimate or not?

When you as a facilitator provide feedback on participants' thoughts, you need to be very clear when differing between what might be participants' opinions of whether a certain limitation **ought** to be legitimate and when international human rights law **states** that it is legitimate.

Hand out

Rules to determine whether a limitation of FORB is legitimate

When can manifestations be limited?

- When they are prescribed by law.
- Only when necessary to protect:
 - public safety, public order, health or morals
 - the rights or freedoms of others.
- Limitations must be proportionate and non-discriminatory.

Are limitations legitimate?

In thinking about whether a limitation is permissible we use the following process:

1. Does the limitation have a legal basis in written law, case law or customary law? If not it is not legitimate.
2. Does the limitation target the absolute right to have or change your religion or beliefs or does it target a manifestation of the right? Limitations of the right to have or change are not permitted.
3. If the limitation targets a behavior – is it in fact a behavior that is intimately linked to a religion or a belief, so that it can be considered a manifestation or is it “just” a behavior?
4. Does the manifestation threaten one of the legitimate grounds for limitation, such as the rights and freedoms of others? And is it necessary or are there other ways to deal with/eliminate the threat?
5. Does the limitation cause direct or indirect discrimination?
6. Is the limitation proportionate, e.g. stand in balance with the threat that the manifestation poses, and effective in relation to the legitimate ground for protection that motivates it?

Hand-out

Is it legitimate?

Legislation on 'disturbing the peace' is used to limit the volume at which public meetings including religious gatherings, calls to prayer etc can be broadcast via loud speakers.

An 'anti-conversion' law requires converts to obtain permission 30 days prior to a conversion ceremony, or face a fine.

A law requires religious communities to be registered with the state. Unregistered religious activity is illegal.

A new law bans teachers from wearing facial veils while teaching.