

Unpacking the Interaction between the Proportionality Principle and Constitutional Interpretation in the Safeguarding of Fundamental Rights

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Abstract: The paper studies the complicated and interacting relationship between the principle of proportionality and the interpretation of the constitution in the adjudication and guaranteeing of basic rights. While fundamental rights are very important indeed in a democratic state, they are seldom unqualified ones and often require some sacrifice of them for public benefit or others' rights. The proportionality principle is now becoming a global standard to judge the legitimacy of such kinds of restrictions, which will require structured inquiry on the legitimacy of the aim, the appropriateness and need of the measures applied, and the balance between the benefit and harm to the right due to the measure. But the use of each antechamber of that principle is not a mechanical process, it's full of interpretive choices. Constitutional interpretation, encompassing various methods such as textualism, originalism, the purposive approach, and the living constitution, offers a prism through which to view the world of judging and law. It is through these methods that judges, lawyers, and others define the scope of rights in a case, identify legitimate state aims, determine the extent to which empirical questions of cause and alternative can be answered, and evaluate the balance of competing values. It is argued here that proportionality and constitutional interpretation are related in an interdependent or symbiotic way; that interpretation lends substantive meaning to the form of proportionality, and on the other hand that proportionality provides a framework within which interpretations can be disciplined and their rationale made transparent. Through analysis of existing theories and hypothetical data analyses the paper demonstrates how different interpretation methodologies can lead to different results within the proportionality matrix, thus having an effect over the actual level of rights protection. The paper then examines how the inherent flexibility within both proportionality and interpretive methods can be problematic, potentially leading to judicial overreach or excessive deference. However, this flexibility also presents an opportunity for a more contextual and nuanced rights jurisprudence. It highlights how vital a nuanced understanding of this interaction between legal scholars, practitioners and the judiciary is to ensuring that fundamental rights are both robustly and justly protected.

1. Introduction

Protection of basic rights is fundamental to all modern constitutional democracies. It is the agreement between the government and people establishing areas of independent sovereignty and setting the boundaries of state power. These rights written into the national constitutions and international laws of human rights were certainly not just aspirational rights. They should become effective legal rights, forming the legal foundation and direction for states to act. However, the articulation of such rights is generally done at very high levels, leaving a great many questions about their scope, content, and permitted grounds for limitation. This is the place for conflict over the relationship between the right, which has no specific method of legal reasoning, and substantive legal principles. The proportionality principle, which is a doctrine of global significance, has become a major tool for determining whether a fundamental right is justified by a structured way. It calls for a robust scrutiny of the state's aims, as well as the means adopted in pursuit of those aims, guaranteeing that any limitation goes no further than what is strictly necessary to accomplish a legitimate public objective and strikes the proper balance. However, the application of proportionality – encompassing the assessment of legitimate aims, the suitability and necessity of measures, and the balancing of public benefit against individual rights – is significantly influenced by how judges and other adjudicators interpret laws and rules. Constitutional interpretation, because it has such a mix of different theories and techniques, offers all the ideas necessary for making constitutional provisions and legal principles come alive, so it directly affects the way the different parts of a proportionality test are understood and used. This paper aims at deconstructing the importance of this interaction. This paper argues that there is no one-directional relationship between proportionality principle and constitution interpretation as the former affects the latter and vice versa, so they determine how efficient and robust the protection of fundamental rights is. Comprehending this dynamic is important for appreciating the complex aspects of constitutional adjudication and encouraging a legal environment that is both principled and responsive to the changing needs of safeguarding human dignity and liberty in today's society. A dive into the concept behind such fundamental rights, and also the concept behind the proportionality principle, will be done here, then I will check out how different reading methods affect them, after which some analyses will be given with some examples to back it up before finishing with what all this means for theory and practice [1].

2. Conceptual Foundations: Fundamental rights and protection requirements

Fundamental rights, often called human rights or basic freedoms, form the foundation of every just and democratic legal order and are normative claims that individuals make against the state and occasionally other private persons. These sorts of rights, such as those relating to life, freedom, privacy, speech, religion, and equality, are deemed to be "fundamental" since it is perceived that they are necessary for the realization of dignity, liberty, and individual autonomy, and for individuals to participate meaningfully in society. Their appearance in constitutional texts makes them extremely important, more important than any other type of legislation and sets them apart so that judicial review can be used to see that they are obeyed by everybody involved. Fundamental rights have many different philosophical underpinnings. These can draw from natural law traditions, which maintain that there are inherent human entitlements in the sense that there is something humans possess by nature or by virtue; Social contracting theories view rights as part of the bargain involving the relinquishment of certain freedoms, while utilitarian or consequentialist theories argue for the protection of rights because it promotes overall societal well-being. The same goes for the fact that, no matter which school of philosophy these thinkers belong to, they all agree that there are things that people have, so to speak, which nobody (especially the state) is allowed to mess with

and that someone needs to make sure that people can enjoy them. Their protection is a necessity because of historical experiences with being oppressed and having power mishandled, showing that there must be good ways for people in charge of states to answer for their actions [2]. But the declaration of rights does exist, but it's only the first step – it must have a legal system behind it to understand the scope of rights, adjudicate for and against breaches of them, and provide remedies. This is made even more complicated by the fact that most basic rights aren't absolute. Most rights can be limited under some circumstances, generally in order to protect public order, national security, public health, public morals, or the rights and freedoms of others. It is exactly at this point of the state trying to restrict one's basic rights in favor of a supposed public good, when solid justifications are needed to keep these most fundamental entitlements from eroding, making sure that any limitations are legitimate, necessary and in proportion to what is being aimed for so as to preserve that fine line between personal freedom and communal interests.

3. The Proportionality Principle: Structure and Application

The proportionality principle has become the main pillar of global constitutionalism and human rights law which supplies a structured and well developed approach to analyze how permissible it is to constrain those rights that are important to every human being. This concept is traced back to German administrative law and then picked up and adapted by constitutional courts in Europe, Asia, Africa, and Latin America, and even international human rights tribunals. The fact that such a wide range of countries has accepted this concept demonstrates they believe it is useful for addressing and navigating the inherent tension between individual liberties and collective interests. Principals generally consist of a four-stage inquiry, though variations do occur. The first step is finding a proper goal, the aim targeted by the rights-restricting action needs to be one that's legal and important to the public. It might be about making sure everyone's safe in public places, keeping people healthy, or stopping others from getting hurt by those actions. This stage instantly encounters interpretive questions of what is a "legitimate" aim in a particular constitutional setting. The second stage is the suitable or reasonable connection test, which focuses on determining if the adopted measure is reasonably connected to the goal stated, and able to achieve the stated goal. That would be a judgment of causation, impact, and it's typically something where you have an analysis of the empirical evidence. The third stage, the necessity test (which is often called the 'least intrusive means' test) is harder. The state needs to show there aren't other measures out there that'd work just as well at reaching that legitimate end but would be less onerous on that fundamental right you're talking about. This is a comparative analysis of the various potential alternatives and their impacts. Finally, the fourth phase is the one where the balance has to be made, also known as proportionality *stricto sensu*. This consists in weighing the advantages that would be obtained with the legitimate objective achieved against the severity of infringement that will occur upon the fundamental right [3]. This is usually the hardest and most debatable step to make since one needs to weigh up the claims and interests that are against each other and check if a fair trade-off has been reached. The nature of the proportionality analysis aims to strengthen the rationality, transparency, and regularity of judicial review so that it no longer amounts to just ad hoc decision-making and makes the state responsible for explaining comprehensively. To make sure that any interference with a basic right is given careful thought and only permitted if it really, truly is needed and well-aimed.

4. Constitutional Interpretation: Theories and Their Influence

Constitutional interpretation is the process whereby the meaning of the provisions of a constitution is ascertained and applied, a function that is usually performed, but not exclusively so, by the judiciary. Constitutional texts are often in broad and open-ended language, with the intention

for the constitution to last for a long period of time and to adapt to changes in society, and therefore there exists an inevitable aspect of interpretation when it comes to constitutional work. A variety of different theories or methods of constitutional interpretation have been worked out, with each one having a different way of telling what the constitution really means, and each also making different guesses about what sort of rules should guide judges and how important those rules are. Textualism looks at the plain or normal meaning of the words of the Constitutional text itself at the time they were written, or more broadly, what those words mean today. Closely linked up is originalism, which looks to interpret constitutional provisions in line with the original intention of the framers or the initial public significance of the document when it was enacted. The proponents say such methods restrict judges' power, preserving democratic validity with an "original bargain." By comparison, live constitutionalism or dynamic interpretation contends a constitution's true meaning has to change to fit present requirements and worth. It approaches the constitution as a constantly changing living document responsive to new changes in society, the economy and technology, and it often emphasizes protection of certain values based on current knowledge. Purposive interpretations aim at discovering the reasons for constitutional provisions, and interpret them on the basis of the best purpose. And that may involve looking past just the actual text to the bigger constitutional framework, history, and overall goals the constitution is trying to achieve. Other options exist like structuralism, which derives meaning out of the associations between different pieces of the constitution, and comparative constitutionalism, which searches for assistance from the jurisprudence of foreign nations. The choice of the interpretive methodology does not lie outside academic scope, its practical implications are significant, judges would handle cases differently, rights and power scopes would be defined otherwise, and the course of constitutional growth as well as people's experience with rights would change accordingly.

5. The Interactive Nexus: Proportionality and constitutional interpretation in symbiosis

The relationship between the proportionality principle and the interpretation of the constitution is not linear, with interpretation leading the way before application, but rather intimately interconnected, mutually supportive and giving content to each other throughout the entire adjudicative process. When a court engages the proportionality principle, it is not engaged in a value-neutral, rote exercise; at each of its four steps, interpretative choices that rest on broader theories and methodologies about constitutions and their interpretation are necessary. Take the first step towards determining a legitimate aim as an example, which requires interpretation as to the objectives that the state has the power under the constitution to pursue. A textualist or originalist might view permissible aims as only those permitted by explicit constitutional empowerments or historical understandings. A living constitutionalist might be more willing to find evolving social needs, like environmental protection or data privacy, as appropriate aims even without being specifically enumerated in the original document. It directly conditions the gateway into the proportionality analysis as well; if a purpose is illegitimate according to a certain interpretative stance, it will end at this stage, the rights violating measure will be stricken out without any further resort to the following steps in proportionality., and suitable test, which tests how reasonable it is for the measure to be taken against the aim. The suitable test requires one to interpret the facts from the evidence provided, as well as the causes of it. Is here in which the judiciary's interpretation for when it's okay for us to treat legislative assessments of success, that they should be given deference versus doing more of the kind of independent searching type of review. A judge inclined toward a more democratic or deferential interpretive posture would readily embrace legislative claims of a suitably empirical basis for a statute, and thus might place greater evidentiary burdens at this stage and make it less likely that the measure passes this threshold if an individual is more rights

protective or inclined toward skepticism [4]. It carries on as the next step, necessity stage, in which seeking to find non-intrusive policy options is a creative, interpretive process with possible policy options and their potential effectiveness again being affected by how willing the court is to take on scrutiny of legislative options and how widely it considers a range of alternatives plausible.

Symbiotic interaction perhaps appears most plainly – and most furiously – at the final stage of proportionality *stricto sensu*, i.e. balancing. Judges are supposed here to weigh up the importance of the public interest served by the rights-limiting means against the magnitude of the infringement of the fundamental right. This is not simple arithmetic; it is a deeply interpretive act of constitutional judgment laden with choices about the relative weight and value to give to competing constitutional principles and social interests. The way in which I wish to apply constitutional interpretation will greatly impact this balance. Take the interpretation of the constitution by an interpreter who stresses individual freedom as a part of his liberal reading of it; he would weigh the right that has been infringed more heavily so as to require a much stronger public interest to justify curtailing it. On the other hand though, should an interpreter place strong value on communitarian beliefs or national security as they define the goals of the US Constitution, those aims could get more weight during periods when they feel a crisis has started. The precise definition of the values at stake, the criteria for weighing them against each other, and the threshold at which an intrusion becomes "too severe" are all determined by the interpretative framework chosen by the court. And the proportionality principle is reciprocal to constitutional interpretation by way of its structured inquiry. It makes interpreters speak out their reasons clearly at every step, so the process of interpreting becomes more open-minded and answerable. It avoids conclusory assertions by calling for detail on what makes the aim legitimate, the means suitable and necessary, and the balance fair. This structuring thus disciplines judicial discretion by channeling interpretive creativity into elaborated reasoning, rather than allowing for unregulated judicial subjectivism. By requiring a structured examination of facts, alternatives, and competing values, proportionality guides constitutional interpretation towards a more pragmatic and situation-sensitive application of abstract constitutional criteria, ensuring norms are implemented based on the specific details of each case. This reciprocal shaping makes sure the fundamental rights aren't just abstract declarations; they're made workable via a reasoned and justifiable analysis process.

6. Data Presentation and Analysis

In order to further show how proportionality and constitutional interpretation interact in the world, now we will introduce a set of 4 fictional data sets. These tables are supposed to be showing potential pattern or outcome from empirical study of case law in different jurisdiction or different legal context. The given data is representative but not specifically based on an empirical study conducted just for this paper; its purpose is to make the theoretical arguments regarding interpretative selections' influence on applying the proportionality principle and the resulting safeguard level more concrete. These tables are going to be discussed in regard to the previous theory, showing how different ways to interpret or judicial philosophy will make a difference on the way the fundamental rights will be judged.

Discussion of Table 1: Table 1 shows that the extent to which proportionality is applied can very much depend on the type of fundamental right at stake as well as whether the main interpretive view taken by courts tends to focus mainly on the scope and/or the importance of the right. Consider political speech which gets strong protection. That would reflect someone who thinks political speech is important to democracy (a purposive or living constitutional approach): It makes the necessity test stricter and results often in a balancing result that favours the right. But for commercial speech we could go the other way, like with a pure textually focused perspective on

economic regulation, where states get more deference wrt to things like consumer protection, less strict necessity review, and weighing that might more easily go states' way again. Also the evolving right to data privacy, often seen through a living constitution or comparative law lens, is trending toward stricter scrutiny, while property rights may receive a more utilitarian, or originalist, treatment allowing for more state action for a public purpose, as long as compensation is given, which again is a form of balancing. Table 1 shows that there is a "neutral" framework of proportionality which reflects heavy prior interpretative commitments about where in the hierarchy different rights sit, and what their central meaning is, which then informs the rigour of the analysis applied at each step [51].

Table 1: Hypothetical Application of Proportionality Elements to Different Rights

Fundamental Right	Predominant Interpretive Stance on Scope	Common "Legitimate Aims" Invoked	Strictness of Necessity Test Application (1-5, 5=strictest)	Typical Outcome in Balancing (Rights vs. State)
Freedom of Speech (Political)	Broad, strong presumption of protection (Living/Purposive)	National Security, Public Order	4.5	Often favors Right
Freedom of Speech (Commercial)	Narrower, less protection (Textualist/Deferential)	Consumer Protection, Fair Competition	3.0	Often favors State
Right to Privacy (Data Protection)	Evolving, increasingly broad (Living/Comparative)	Crime Prevention, Economic Efficiency	4.0	Variable, increasingly favors Right
Freedom of Religion (Practice)	Moderate, accommodation focused (Purposive/Contextual)	Public Health, Rights of Others	3.5	Balanced, depends heavily on context
Right to Property	Variable, influenced by economic theory (Originalist/Utilitarian)	Public Infrastructure, Taxation	2.5	Often favors State (with compensation)

Table 2: Impact of Interpretive Methodologies on "Legitimate Aim" Determination

Interpretive Methodology	Example Aim: "Public Morality"	Example Aim: "National Economic Stability"	Likelihood of Aim Deemed "Legitimate" (1-5, 5=highest)	Judicial Confidence in Defining Aim (1-5, 5=highest)
Textualism	High if textually supported	Moderate, if linked to commerce/tax powers	4.0 (if textual basis clear)	4.5
Originalism (Intent)	High if historically recognized	Low, unless specific historical precedent	3.5 (depends on historical evidence)	3.0
Living Constitutionalism	Moderate, evolving standards	High, responsive to modern needs	4.5 (if strong contemporary justification)	4.0
Purposive Interpretation	Depends on underlying constitutional purpose (e.g., harm prevention vs. paternalism)	High, if aligned with broad constitutional goals	4.0 (depends on articulation of purpose)	3.5
Deferential Approach	Very High	Very High	5.0	2.5 (less independent definition)

Discussion of Table 2: Table 2 is imaginary; it asks which interpretational methods might affect the very first stage in the proportionality evaluation – identifying a "genuine objective". Assume

that the objective is something like "public morality". The way a judge might read something like public morals into a constitutional provision as a "legitimate aim" would look different given different methods. A textualist might find this legitimate if the constitution talks about public morals or has a history of broadly understanding such phrases. And an originalist might turn to the framers' particular idea of public morality, which might be quite narrow or quite wide depending on the historical record. However, a living constitutionalist would interpret "public morality" based on current, pluralistic social values. This approach might limit the state's legitimate power to compel moral behavior if such compulsion is perceived to infringe upon "autonomy rights." Conversely, for an aim like "national economic stability," a living constitutionalist or purposive interpreter might readily presume its legitimacy, especially in the context of modern governance. In contrast, a strict originalist would likely struggle to find direct historical support for such an aim unless it can be tied to specific enumerated powers. A deferential approach that focuses on legislative judgment might find most of these declared aims permissible, so it would shift much of the analytical weight to the later proportionality steps. This table captures the fact that even the very gateway of the proportionality test is policed by the judicially selected interpretative philosophy, thereby determining both whether any given state objective is even an eligible justification for rights infringements and how confident or scrutinizing one can speak the scope of such aims.

Table 3: Judicial Scrutiny in Necessity Testing Across Jurisdictions (Hypothetical Rating)

Jurisdiction/Court Type	Dominant Interpretive Leaning	Evidence Threshold for State Justification	Willingness to Suggest Alternatives (1-5, 5=high)	Average "Necessity" Stringency Score (1-5, 5=high)
Court A (e.g., German-style Constitutional Court)	Rights-centric, purposive	High, detailed empirical data expected	4.5	4.5
Court B (e.g., UK-style, HRA context)	Dialogue-focused, deference with anxiety	Moderate to High, context-dependent	3.5	4.0
Court C (e.g., US Supreme Court - varying doctrines)	Varies by right/doctrine (e.g., strict scrutiny vs. rational basis)	Varies significantly	2.5 (less prone to suggesting specific policy alternatives)	3.0 (average across doctrines, highly variable)
Court D (e.g., Developing Democracy, newer Constitution)	Aspirational, rights-protective but capacity-conscious	Moderate, acknowledges state limitations	3.0	3.5
International Human Rights Tribunal	Pro-Homine, evolving standards	High, comparative best practices often considered	4.0	4.2

Discussion of Table 3: Table 3 reflects a hypothetical table about an overview comparison of different types of court or regions depending on their dominant interpretation type, regarding different scrutiny in the "necessity part" for "Proportionality", for example, if the region/court dominant in Liberal interpretation would allow the scrutiny in the "necessity part" to be wider, etc. Take the example of a constitutional court like the German Federal Constitutional Court (Court A), which values rights protection and employs purposive interpretation extensively. It tends to require a high threshold for evidence from the state and exhibits a strong willingness to look at and even subtly suggest alternatives that cause less harm, resulting in a high stringency score for necessity. On the other hand, the US Supreme Court (Court C) applies different standards of scrutiny (strict scrutiny, intermediate scrutiny, rational-basis test), which can be seen as equivalent to varying degrees of proportionality, but its necessity analysis is not necessarily as systematic across all categories of rights as those of dedicated proportionality jurisdictions, and it may not be as inclined

to proactively suggest policy alternatives to the legislature. Court D, a court of a developing democracy, might interpretively choose a more aspirational stance of rights-protective, yet would have some realization that it might be hard for the state to do what is necessary given its capacity and resources. International Human Rights Tribunals tend to apply a pro-homine principle (leaning towards the individual), and reference comparative best practice, resulting in careful necessity consideration. This table shows that the "necessity" test is not a consistent standard worldwide, and it is heavily influenced by the local prevailing judicial philosophy, interpretative traditions on the separation of powers, and the specific constitutional or human rights framework in which the court operates, all of which impact the degree of scrutiny and the state's burden of justification.

Table 4: Perceived Influence of Interpretive Flexibility on Balancing Outcomes

Interpretive Approach to Balancing	Emphasis	Perceived Predictability (1-5, 5=high)	Perceived Judicial Discretion (1-5, 5=high)	Risk of Subjectivity (1-5, 5=high)	Potential for Contextual Justice (1-5, 5=high)
Strict Value Hierarchy (e.g.,,, dignity paramount)	Pre-defined ranking of values,,,	4.0	2.5	2.0	3.0
Ad Hoc/Intuitive Balancing	Case-specific intuition	1.5	4.8	4.5	3.5 (if intuition is well-grounded)
Structured Balancing (Alexy's weight formula-inspired)	Rational assignment of weights/intensity	3.5	3.5	3.0	4.0
Deferential Balancing (Margin of Appreciation)	Legislative/Executive judgment	3.0 (predictable deference)	2.0 (for the court, high for legislature)	2.5 (shifts subjectivity to other branches)	2.5
Rights as Trumps (Dworkinian)	Rights override utility unless catastrophic	4.5	3.0	1.5	4.2

Discussion of Table 4: In Table 4 the perceived impact of different interpretive approaches is hypothesized with regard to the impact of the balancing stage itself (proportionality strict) sensu. At this stage it's probably very subjective. If courts adopt an interpretive stance that creates a hierarchy between constitutional values (e.g. human dignity over all else), then the balancing exercise may become more predictable as overt judicial discretion is reduced but there may be less room for contextual justice. On the other hand, an ad hoc or entirely discretionary approach to balancing would allow for the court's ability to have sensitivity to unique case facts. It scores high in judicial discretion and risk of subjectivity but low in predictability. Balancing with structure, like Robert Alexy's weight formula that tries to make sense of giving abstract weights and intensity of interference, makes the parts of the balancing exercise more clear so that it can be easier to guess what will happen, and gives less room for people to do as they wish. This might make people think that the outcome is fairer because the reasons are spelled out. a deferential balancing approach, akin to the "margin of appreciation" found in international law or certain domestic socio-economic contexts. This approach, however, may introduce a degree of subjectivity in the legislative and executive branches. Lastly, a "rights as trumps" model similar to Dworkin but that is generally favorable towards rights except when facing a catastrophe provides another form of high predictability and constrains judicial discretion differently, pointing out the deontological aspect of rights. This table demonstrates that the interpretive approach chosen when undertaking the balancing act determines peoples' opinions of the legitimacy, predictability, and fairness of the final, most important stage of the proportionality principle's balancing act, and that tension still exists

between legal certainty, judicial limitations, and justice in individual cases.

These tables contain the data that, though indicative, emphasize the central thesis of this paper – that the proportional process is not mechanical or entirely objective. But rather, it is a continuous give and take process that constitutional interpretation gives the substantive meaning, analytical power and normative direction at each stage of the proportionality process. The particular interpretative method chosen, the general court philosophy on the breadth of rights and the degree of judicial deference toward other branches of government, and the distinctive factual & normative context of the case at hand all come together in determining the final outcome of rights adjudication.

7. Conclusion

The complex interaction of the P principle and constitutional interpretation is the core of modern fundamental rights adjudication, which forms a mutually constitutive relationship and creates an ever-changing situation for constitutional law. This paper aims to show that the application of proportionality isn't just a value-neutral or mechanical affair but involves interpretation choice at every single step, from spotting the genuine state objective, to deciding whether a specific measure is suitable and needed, and eventually balancing different rights and interests together. With the different methodologies of constitutional interpretation, no matter text, originalism, purpose, or living constitution, all provide the essential lens from which this abstract structure of proportionality can be given concrete meaning with regard to specific facts. That is why a court's interpretative attitude has a huge sway as to how stringently the court scrutinizes the proportionality of a rights claim and thus to what effect the rights claim arrives, so as to settle for how much freedom from state interference really applies: the result of the proportionality judgment. Illustrative data tables were shown so they could give an idea of how those interactions between theory and practice would show up in real life, showing the differences based on the right in question, interpretation methods, the area where the judge is in the jurisdiction, and different ways of mixing them up.

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