International Journal of Law, Ethics and Social Sciences

Review

Proportionality as a Global Standard of Constitutional Review: Convergence and Divergence

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Abstract: This review paper examines the global diffusion of proportionality as a standard of constitutional review, analyzing both its convergent doctrinal vocabulary and the divergent practices through which that vocabulary is operationalized. It first traces the historical origins of proportionality in German administrative and constitutional jurisprudence and its subsequent migration to European, common law, and Global South jurisdictions. The paper then identifies a convergent core: a shared set of four functional categories-legitimate aim, suitability, necessity, and balancing-together with shared judicial practices of justification and rights discourse. Yet significant divergence persists in the intensity of review, the margin of appreciation afforded to legislative choices, the order and weight of the stages, the effect of failure at each stage, and the application to socio-economic rights and positive obligations. Drawing on a core sample of six systems-Germany, Canada, the United Kingdom, South Africa, the European Court of Human Rights, and Brazil-the paper highlights theoretical critiques concerning incommensurability and rationality, as well as institutional and democratic legitimacy concerns. It further considers emerging adaptations in supranational and hybrid regimes and potential alternative standards. The paper concludes that while proportionality has become a lingua franca of rights adjudication, its global standardization is incomplete and contested, marked by a dynamic interplay of convergence and divergence. This duality has profound implications for comparative constitutional theory and the future of rights-based judicial review.

Keywords: proportionality; constitutional review; judicial balancing; comparative constitutional law; global constitutionalism

1. Introduction

1.1. The Problem of Global Constitutional Review

The global diffusion of proportionality has become one of the most consequential developments in contemporary comparative constitutional law [1]. Once closely associated with the jurisprudence of the German Federal Constitutional Court, proportionality analysis now structures rights adjudication across jurisdictions with radically different legal traditions, institutional architectures, and political histories. This convergence is striking precisely because it cuts against the grain of constitutional particularism, suggesting that certain modes of legal reasoning possess a transnational appeal that transcends local doctrinal categories. Yet the apparent uniformity of proportionality's global spread masks persistent divergences in how courts conceptualize, operationalize, and apply its constituent stages [2]. The central question is therefore not simply whether proportionality has become a universal standard, but what kind of universality it embodies: a substantive convergence toward shared normative commitments, or a formal convergence that accommodates deep and perhaps irreconcilable differences in constitutional practice [3, 4].

1.2. Analytical Framework and Scope

Received: 19 September 2026
Revised: 27 October 2026
Accepted: 09 November 2026
Published: 13 November 2026

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The analytical framework adopted here distinguishes convergence at the level of vocabulary from divergence at the level of operation. Convergence of vocabulary refers to the increasingly shared set of functional categories-legitimate aim, suitability, necessity, and balancing-through which courts articulate rights limitations. Divergence of operation refers to persistent variation in how those categories are ordered, weighted, and made to bear the justificatory burden, as well as in the intensity of review and in the justiciability of positive obligations [1, 5]. Because sequencing and weighting are themselves doctrinal rather than merely contextual variables, the distinction does not separate form from substance; it separates a thin convergence of labels from a thicker convergence of method, and it is the latter that the evidence does not support. The scope of this paper is deliberately synthetic rather than exhaustive. It draws on existing scholarship and on a core sample of six systems-Germany, Canada, the United Kingdom, South Africa, the European Court of Human Rights, and Brazil-selected to represent civil-law, common-law, and hybrid constitutional traditions. Two exclusions should be noted at the outset. The United States, whose rational-basis and intermediate-scrutiny doctrines are the principal counter-example to the convergence thesis, is not treated here and would require separate analysis. Jurisdictions in Asia and Africa are mentioned only in passing [1, 6]. This approach permits a focused examination of whether proportionality functions as a genuinely global standard or merely as a shared vocabulary masking deeper normative disagreements.

2. Historical Overview: Origins and Migration of Proportionality

2.1. German Origins and European Consolidation

The conceptual flowchart presented in Figure 1 traces the doctrinal migration of proportionality from its administrative law origins to its consolidation as a transnational constitutional standard [7]. The initial node locates proportionality within nineteenth-century German police law, where executive measures were required to demonstrate suitability and necessity in relation to their stated public-order objectives [8]. The first critical transition, annotated as the shift from administrative to constitutional reasoning, occurred as these principles were absorbed into the framework of fundamental rights protection under the Basic Law. The Basic Law did not codify proportionality expressly; its rights provisions, the guarantee of the essence of rights in Article 19(2), and the rule-of-law principle in Article 20(3) supplied the textual anchors from which the Federal Constitutional Court elaborated a structured, multi-stage test in Lüth and the Apothekerurteil (both 1958), encompassing legitimate purpose, suitability, necessity, and proportionality in the narrow sense. As illustrated in Figure 1, the subsequent directional arrows mark the supranational adoption of this doctrinal architecture [1, 9]. The European Court of Human Rights absorbed proportionality reasoning through the "necessary in a democratic society" clause, transforming a national interpretive tool into a general principle of European rights review. Concurrently, the Court of Justice of the European Union incorporated proportionality as a general principle governing both institutional action and member state derogations. The final node captures the horizontal diffusion across continental European constitutional courts, where proportionality became the dominant framework for adjudicating rights limitations, thereby completing the migration from a localized administrative doctrine to a shared grammar of constitutional justification [3, 10].



Figure 1. Conceptual Flowchart of Early Proportionality Migration from German Origins to European Consolidation

2.2. Diffusion to Common Law and Global South

The migration of proportionality to common law jurisdictions followed a distinctive path shaped by domestic constitutional cultures and rights traditions. Canada emerged as the principal early adopter, integrating structured balancing into its Charter jurisprudence in R v Oakes (1986) and thereby transforming proportionality from a continental administrative doctrine into a constitutional standard capable of reconciling individual rights with legislative objectives [11]. The United Kingdom, by contrast, absorbed proportionality through the conduit of European human rights law, producing a hybrid practice in which proportionality coexists with, and gradually displaces, traditional Wednesbury unreasonableness-a shift crystallized in R (Daly) v Secretary of State for the Home Department (2001). South Africa's post-apartheid constitution supplied a reasonableness and justifiability clause (section 36) rather than an express proportionality requirement; the Constitutional Court nonetheless reads that clause through a proportionality lens, embedding the analysis within a transformative constitutionalism aimed at redressing historical injustice [12]. In Latin America, proportionality entered through the influence of constitutional courts engaged in transnational judicial dialogue, while in Asia and Africa reception has been more uneven, often mediated by colonial legal inheritances, authoritarian governance structures, and varying degrees of judicial independence [13, 14]. These divergent pathways reveal that proportionality is not a monolithic transplant but a flexible framework whose institutional meaning is reshaped by local legal traditions, political contexts, and prevailing conceptions of judicial legitimacy.

3. Convergent Doctrinal Architecture

3.1. Standard Multi-Stage Test as a Shared Template

The near-universal adoption of a structured, multi-stage inquiry constitutes the most visible doctrinal convergence in contemporary constitutional review [15]. As illustrated in Figure 2, the canonical four-stage test can be presented as a linear sequence comprising legitimate aim, suitability, necessity, and balancing stricto sensu. In its ideal-typical form each stage operates as a discrete decision node with pass/fail branches: a measure failing to satisfy a single stage is treated as invalid, and the analysis terminates without proceeding further [16, 17]. This sequential logic requires courts to verify the constitutional permissibility of the legislative objective before assessing the instrumental rationality of the means. The suitability stage demands a rational connection between means and end, while necessity requires the least restrictive alternative among reasonably available options. Only measures surviving these threshold inquiries reach the balancing stage, where courts weigh the severity of the rights infringement against the importance of the competing public interest. The figure's depiction of functionally equivalent decision

points across jurisdictions underscores that, notwithstanding terminological variations-the German Verhältnismäßigkeitsprüfung, the Canadian Oakes test, and limitation-clause analysis under section 36-the four functional categories recur with remarkable stability, facilitating transnational judicial dialogue and doctrinal borrowing. The canonical sequence is, however, only one of several operationalizations: as Section 4.2 shows, systems differ in the order in which the stages are addressed and in whether failure at one stage is conclusive.

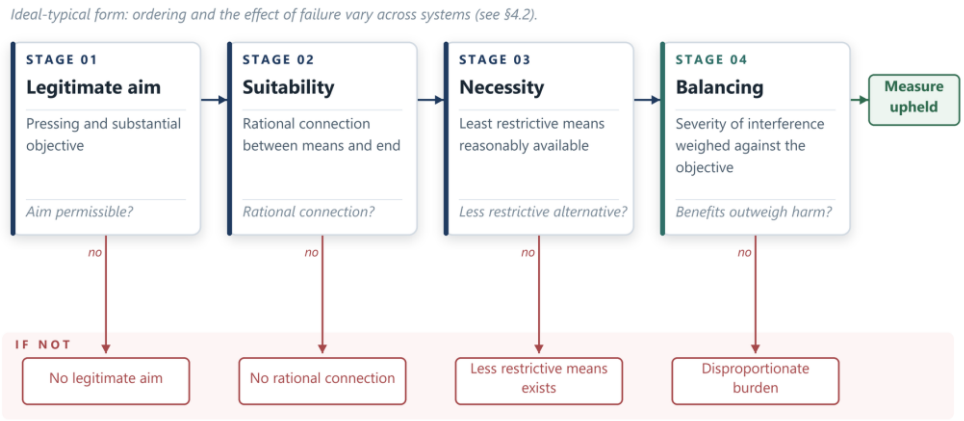


Figure 2. Standard Four-Stage Proportionality Test as a Shared Doctrinal Template

3.2. Judicial Adoption of Balancing and Justification

The global diffusion of proportionality has been accompanied by a marked convergence in judicial expectations regarding legislative justification and the transparency of balancing exercises. As detailed in Table 1, courts across the six systems examined here now demand that rights-limiting measures be supported by structured reasoning rather than mere assertion. Germany and Canada exemplify the most demanding approach, requiring high levels of legislative justification and publishing detailed proportionality analyses or Oakes test documentation [8]. These systems emphasize the relationship between individual rights and the public interest, compelling decision-makers to articulate precisely how competing values are weighed. The United Kingdom occupies an intermediate position: proportionality review under the Human Rights Act 1998 is reasoned and transparent, but the courts' "discretionary area of judgment" keeps the justificatory burden on the legislature in politically sensitive fields. South Africa adopts a moderate stance, with reasonableness justification reflecting its distinctive socio-economic context, where courts balance resource constraints against rights realization. The European Court of Human Rights presents a variable pattern, calibrating justification demands according to the presence or absence of European consensus on particular issues. Brazil displays an emerging pattern, in which proportionality reasoning is increasingly published but remains uneven across the Supreme Federal Court's chambers. Despite these differences in intensity, all six systems share a common commitment to judicial transparency through published reasoning [8]. This convergence suggests that balancing has become not merely a doctrinal tool but a communicative practice, obliging both legislatures and courts to render visible the normative choices underlying rights adjudication.

Table 1. Comparative Parameters of Judicial Balancing and Justification Demands

Jurisdiction/ Regime	Demand for Legislative Justification	Judicial Transparency Mechanism	Typical Balancing Emphasis
Germany	High	Published proportionality analysis	Individual rights vs. public interest

Canada	High	Oakes test documentation	Rights vs. legislative objective
United Kingdom	Moderate	Reasoned judgment under the HRA 1998	Deference to Parliament
South Africa	Moderate	Reasonableness justification	Socio-economic context
ECtHR	Variable	Structured balancing notes	European consensus
Brazil	Variable	Emerging reasoned balancing	Social rights vs. budget

3.3. Convergence in Rights Discourse and Global Judicial Dialogue

The increasing density of transnational judicial communication has transformed proportionality from a localized technique into a shared grammar of constitutional adjudication. Courts confronting structurally similar rights claims now routinely engage with foreign and international jurisprudence, not as binding authority but as persuasive epistemic resources. This dialogic practice has generated a striking convergence in the vocabulary of rights limitation: terms such as suitability, necessity, and balancing in the narrower sense now circulate across jurisdictions with remarkable semantic stability [10]. The globalization of rights discourse has been facilitated by institutional networks, judicial conferences, and the transnational mobility of legal elites, all of which contribute to the diffusion of a common analytical framework. Consequently, proportionality functions as a lingua franca that enables courts to articulate rights limitations in mutually intelligible terms, even where underlying constitutional cultures diverge [1, 8]. This convergence in discourse does not necessarily produce identical outcomes, but it does establish a shared normative terrain upon which disagreements can be articulated and assessed. The common grammar of proportionality thus reinforces its status as a global standard, not by imposing uniformity, but by enabling structured and meaningful cross-jurisdictional engagement [1].

4. Divergent Operational and Institutional Practices

4.1. Intensity of Review and Margin of Appreciation

Comparative constitutional practice reveals that the purported universality of proportionality masks significant divergence in the intensity of review and the deference afforded to legislative and executive judgment [2, 17]. As detailed in Table 2, systems calibrate scrutiny according to the nature of the right and the policy domain at issue, so that the labels in the table describe a default posture rather than an invariable practice. Germany and Canada exemplify a strict standard of review, maintaining a narrow margin of appreciation that subjects most rights-limiting measures to rigorous judicial oversight [2]. In contrast, the United Kingdom and the European Court of Human Rights adopt a variable intensity, with the latter's wide margin doctrine granting states considerable latitude, particularly in cases involving public morality (Handyside v United Kingdom, 1976). South Africa occupies an intermediate position, applying moderate scrutiny while remaining notably deferential on resource allocation (Soobramoney, 1998), reflecting the practical constraints of socio-economic rights adjudication. Brazil combines strong constitutional guarantees of social rights with a deferential practice in budgetary matters. The policy areas attracting greater deference are themselves revealing: national security in Germany, immigration in Canada, national security and contested moral questions in the United Kingdom, public morality in the Strasbourg system, and housing and health in South Africa. These patterns indicate that divergence is not arbitrary but tracks institutional self-understanding, the perceived competence of courts in polycentric disputes, and the relative weight assigned to democratic legitimacy versus rights protection. Consequently, proportionality's global diffusion has been accompanied by localized recalibrations of its core components, producing a family of doctrines rather than a single uniform standard.

Table 2. Comparative Intensity of Review and Margin of Appreciation Across Jurisdictions

Jurisdiction/ Regime	Standard of Review Intensity	Margin of Appreciation / Policy Areas with Greater Deference
Germany	Strict	Narrow	National security
Canada	Strict	Narrow	Immigration
United Kingdom	Variable	Broad in some areas	National security; moral questions
South Africa	Moderate	Deferential on resource allocation	Housing/health
ECtHR	Variable	Wide margin doctrine	Public morality
Brazil	Moderate	Deferential on budgetary allocation	Health/social security

4.2. Variations in Sequencing and Weighting of Stages

The ostensibly universal four-stage architecture of proportionality conceals significant divergence in how courts sequence, collapse, or differentially weight its stages. As illustrated in Figure 3, the canonical sequence proceeds from legitimate aim through suitability and necessity to balancing; alternative paths, however, reveal distinct institutional logics. The Canadian Oakes formulation (Path A) retains the four canonical stages but renames them-pressing and substantial objective, rational connection, minimal impairment, and proportionate effect-and reallocates argumentative weight to the means-end inquiries. Because rational connection and minimal impairment are treated as discrete screening devices, empirical scrutiny is front-loaded and the final balancing stage is often comparatively residual. The German path (Path B) preserves the classical sequence but invests proportionality stricto sensu with decisive normative weight, making balancing the doctrinal apex where rights and public interests are weighed most intensively [17]. Path C, associated with certain Global South jurisdictions, moves balancing forward in the analysis, so that contextual and distributive considerations shape the assessment of necessity itself; necessity is thereby collapsed into, or made residual to, the balancing inquiry. These variations are not merely formal: they determine which stage bears the primary justificatory burden and how far empirical rather than normative reasoning predominates [5].

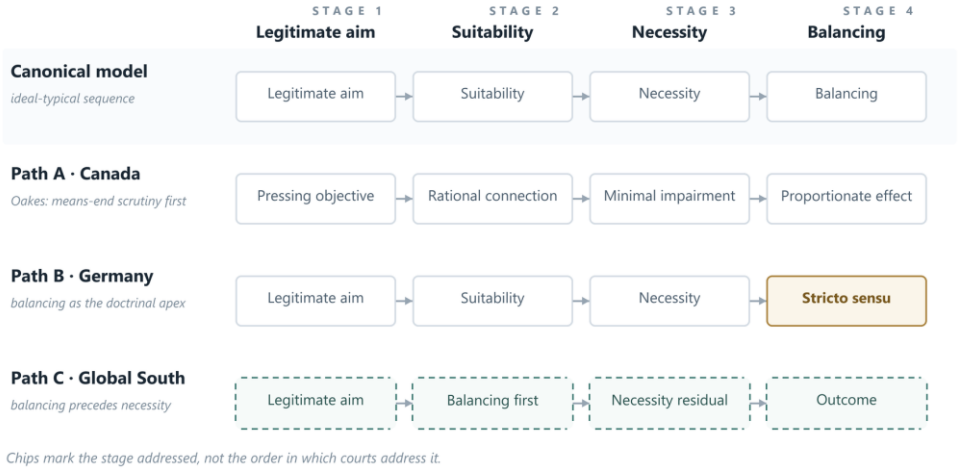


Figure 3. Alternative Sequencing of Proportionality Stages Across Jurisdictions

4.3. Divergence in Socio-Economic Rights and Positive Obligations

The application of proportionality to socio-economic rights reveals perhaps the sharpest divergence in global constitutional practice [3]. As detailed in Table 3, systems differ fundamentally on whether such rights are amenable to proportionality analysis at all, reflecting deeper disagreements about judicial competence and the nature of positive

state duties [14]. Germany and Canada exemplify the restrictive approach: socio-economic entitlements are channeled through legislative formation, and proportionality is reserved primarily for negative liberties. In Germany the Federal Constitutional Court has nonetheless derived a justiciable right to a subsistence minimum from human dignity and the social-state principle (BVerfGE 125, 175, Hartz IV), while in Canada the Supreme Court has declined to read broad positive obligations into section 7 (Gosselin v Quebec, 2002). Positive obligations are therefore weak in Germany and moderate in Canada, but in neither system does proportionality structure the core of social-rights review. The United Kingdom follows a similar pattern, with socio-economic claims mediated by the Human Rights Act 1998 and by reasonableness review rather than by proportionality proper. South Africa represents the opposite pole: the Constitutional Court has developed an explicit and robust reasonableness-proportionality hybrid that evaluates housing, health, and social security claims through a structured inquiry into resource allocation and progressive realization (Grootboom, 2001; Treatment Action Campaign, 2002). Two dimensions must be kept apart here: South Africa's general intensity of review is moderate, but its engagement with social rights is the most extensive in the sample. The European Court of Human Rights occupies an intermediate position, deploying proportionality moderately to derive positive obligations from civil and political rights, particularly regarding environmental hazards (López Ostra v Spain, 1994) and physical integrity (Osman v United Kingdom, 1998). Brazil constitutes an emerging jurisdiction where the Supreme Federal Court increasingly invokes proportionality alongside social-rights guarantees (ADPF 45, 2004), though enforcement remains institutionally developing. These variations demonstrate that proportionality's migration into socio-economic adjudication is neither uniform nor inevitable, contingent instead upon constitutional text, judicial philosophy, and prevailing conceptions of separation of powers.

Table 3. Application of Proportionality to Socio-Economic Rights Across Jurisdictions

Jurisdiction/ Regime	Application to Socio-Economic Rights	Use of Proportionality Standard	Positive Obligations Treatment
Germany	Limited	Not primary	Indirect (subsistence minimum)
Canada	Limited	Not primary	Moderate
United Kingdom	Limited	Not primary	Weak–moderate
South Africa	Explicit and robust	Reasonableness/proportionality hybrid	Strong via reasonableness
ECtHR	Moderate via positive obligations	Proportionality for positive obligations	Moderate
Brazil	Emerging	Proportionality with social rights	Developing

5. Critiques and Limits of the Global Standard

5.1. Theoretical Critiques: Incommensurability and Rationality

The most persistent theoretical objection to proportionality concerns the incommensurability of the values placed on either side of the balancing scale. Critics argue that constitutional rights, public security, administrative efficiency, and moral sensibilities do not share a common metric that would permit meaningful comparison; the metaphor of weighing conceals an act of judicial fiat rather than measurement [16]. A related critique targets the rationality of the balancing operation itself. Without a pre-established hierarchy of values or a determinate algorithm for assigning weight, the proportionality test appears to permit ad hoc decision-making, where outcomes are driven by the intensity of judicial preferences rather than by legal principle. This objection is sharpened

by empirical observations of divergent results across jurisdictions applying ostensibly identical doctrinal frameworks, suggesting that the standard's predictive power is weak. Defenders respond that proportionality does not claim mathematical precision but rather structures a transparent, justificatory discourse, forcing judges to articulate the reasons for preference and to expose the empirical assumptions underlying necessity and balancing. Nevertheless, the persistence of these critiques undermines the strongest version of the convergence thesis: proportionality may supply a common vocabulary and a recurring set of analytical categories, yet it cannot guarantee either a shared sequence or substantive uniformity where fundamental value pluralism and institutional variation remain decisive.

5.2. Institutional and Democratic Legitimacy Concerns

The most prominent institutional objection to proportionality's global ascendancy concerns its consequences for democratic self-government. Critics argue that the doctrine's structured yet open-ended balancing framework effectively transfers contested policy judgments from legislatures and executives to constitutional courts, thereby weakening democratic accountability. Because proportionality requires judges to evaluate the relative weight of competing public interests and individual rights, it invites judicial second-guessing of legislative priorities that may be better resolved through electoral deliberation. This concern is especially acute in systems with weak political checks on judicial appointments or limited traditions of judicial restraint, where proportionality can amplify counter-majoritarian difficulties. Yet the severity of this legitimacy problem varies considerably across constitutional cultures. In jurisdictions with mature parliamentary oversight and robust rights-protective bureaucracies, proportionality often functions as a dialogic tool, prompting legislative reconsideration rather than final judicial imposition [13, 17]. Conversely, in newer constitutional democracies or hybrid regimes, the same doctrine may empower courts to fill normative vacuums left by dysfunctional or captured legislatures, raising distinct legitimacy trade-offs. The global standard thus operates along a spectrum: its democratic costs depend less on the doctrine's internal logic than on the surrounding institutional ecology, including the strength of political parties, the independence of administrative agencies, and the depth of civic engagement with constitutional discourse.

5.3. Empirical Divergence Despite Doctrinal Convergence

The empirical record complicates any straightforward account of proportionality's global triumph. Courts across the core sample-and, beyond it, in Colombia-now routinely invoke the same four-stage sequence of legitimate aim, suitability, necessity, and balancing, yet their decisional outputs frequently diverge in ways that doctrinal vocabulary alone cannot explain [8]. In the domain of socio-economic rights, for instance, the South African Constitutional Court's structured reasonableness review in Grootboom (2001) and the German Federal Constitutional Court's derivation of a subsistence minimum in Hartz IV (2010) deploy markedly different institutional vocabularies and remedies, while the Brazilian Supreme Federal Court's treatment of the "reserva do possível" in ADPF 45 (2004) and the Colombian Constitutional Court's structural orders in T-760/2008 occupy yet another position. It bears emphasis that Germany and Canada do not apply proportionality to social rights at all: their divergence from South Africa, Brazil, and Colombia is located at the threshold of justiciability rather than inside the proportionality test, which is itself a substantive constitutional choice. In freedom of expression cases, similarly, the weight assigned to public order and national security interests varies dramatically across legal systems despite shared methodological commitments. These divergences reflect deeper institutional variables: the relative authority of courts vis-à-vis legislatures, prevailing interpretive traditions regarding constitutional silence, the availability of robust empirical evidence, and culturally embedded hierarchies among competing rights. Consequently, what appears as convergence at the level of formal doctrine may mask persistent pluralism at the level of substantive constitutional judgment. The global standard, in this light, functions less as a

determinate algorithm than as a shared grammar that accommodates markedly different normative dialects.

6. Future Perspectives: Adaptation and Alternatives

6.1. Proportionality in Supranational and Hybrid Regimes

The trajectory of proportionality within supranational and hybrid regimes is increasingly defined by recursive judicial dialogue rather than unidirectional imposition. As illustrated in Figure 4, the bidirectional arrows connecting national constitutional courts, regional human rights courts, and supranational integration bodies reveal a dynamic of mutual calibration. National courts transmit questions upward-through preliminary references in the European Union, and through advisory opinions and individual petitions in the regional human rights systems-while supranational bodies issue interpretations that are subsequently filtered through domestic constitutional identities. This feedback loop-depicted by the annotation nodes for national adaptation-demonstrates that proportionality is not merely transplanted but blended with indigenous standards such as reasonableness or proportionality-skeptical review. In hybrid tribunals and mixed legal orders, the standard undergoes further hybridization, accommodating plural normative sources [14]. The future of proportionality therefore lies not in doctrinal uniformity but in its capacity to function as a flexible grammar for coordinating multi-level governance while tolerating persistent divergence [7, 17].

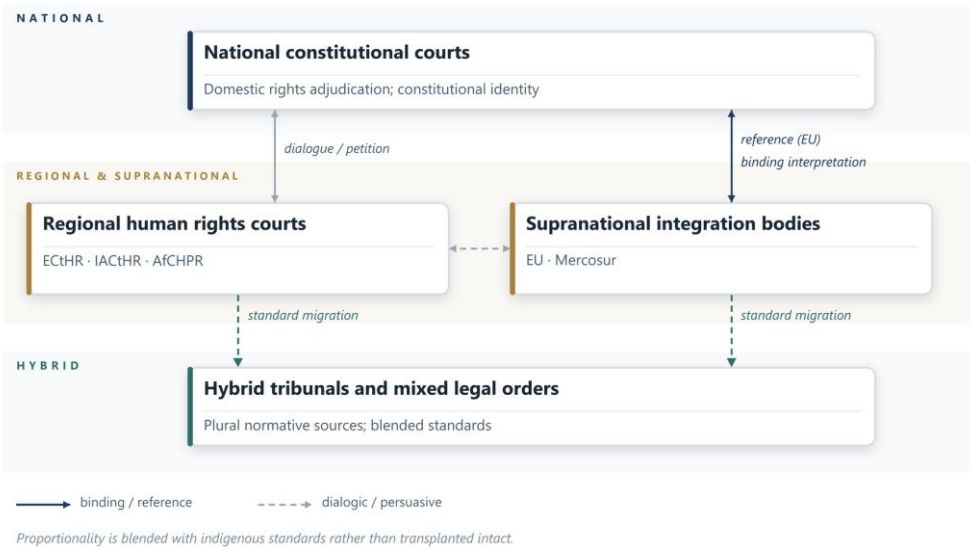


Figure 4. Multi-Level Governance Pathways for Proportionality in Supranational and Hybrid Regimes

6.2. Emerging Alternatives and Hybrid Standards

The search for doctrinal alternatives has intensified as courts confront the limits of orthodox balancing. Reasonableness review, long associated with common law traditions, has been revived as a less formalized mode of judicial supervision, emphasizing deference and contextual judgment over sequential sub-tests [13]. Concurrently, structured proportionality with categorical constraints seeks to preserve analytical rigor while excluding certain interests from trade-off logic, particularly in domains involving human dignity or absolute rights. Contextual balancing models further fragment the landscape by tailoring intensity to institutional competence and rights typology. These developments qualify rather than displace the canonical model set out in Section 3.1: categorical constraints, in particular, are incompatible with the linear, all-things-considered sequence described there. They do not signal wholesale divergence; rather, they indicate a second-generation convergence around hybrid standards that retain

proportionality's core rationality while adapting its architecture to local constitutional cultures and normative priorities [17].

7. Conclusion

7.1. Summary of Convergence and Persistent Divergence

The preceding analysis has demonstrated that proportionality has achieved a striking degree of convergence at the level of vocabulary, with courts worldwide adopting the four functional categories of legitimate aim, suitability, necessity, and balancing. Yet this convergence of labels coexists with persistent divergence in operation-in the order and weight of the stages, in the effect of failure at each stage, and in the intensity of review-driven by institutional role conceptions, rights hierarchies, and differing attitudes toward judicial deference. Convergence stems primarily from transnational judicial dialogue and the method's rhetorical flexibility, while divergence reflects embedded constitutional cultures and the strategic choices of courts within them. Proportionality thus functions less as a determinate algorithm than as a shared grammar of justification, enabling common discourse while accommodating substantive disagreement.

7.2. Implications for Comparative Constitutional Theory

The global diffusion of proportionality has fundamentally altered the conceptual architecture of comparative constitutional law, yet its implications resist any simple narrative of convergence. What emerges from the preceding analysis is a standard whose authority derives precisely from its capacity to accommodate divergent interpretive practices while maintaining a recognizable common grammar. Comparative scholarship must therefore move beyond the binary of transplant success or failure, attending instead to the subtle processes of adaptation, resistance, and hybridization that characterize proportionality's reception across jurisdictions. The standard functions less as a fixed doctrinal template than as a shared vocabulary through which courts articulate context-specific judgments about rights limitations. This understanding reframes the field's methodological commitments: rather than measuring deviation from an idealized model, comparative constitutional theory should investigate how proportionality's structural elements are selectively emphasized, recombined, and inflected by local legal cultures. Such an approach reveals that the globalization of proportionality is not a story of homogenization but of productive contestation, where convergence in form coexists with persistent divergence in substantive reasoning.

References

1. N. Emiliou, *The Principle of Proportionality in European Law: A Comparative Study*. London: Kluwer Law International, 1996.
2. J. Rivers, "Proportionality and variable intensity of review," *Cambridge Law Journal*, vol. 65, no. 1, pp. 174–207, 2006.
3. A. Barak, "Proportionality and principled balancing," *Law and Ethics of Human Rights*, vol. 4, p. 1, 2010.
4. T. J. Gunn, "Deconstructing proportionality in limitations analysis," *Emory International Law Review*, vol. 19, p. 465, 2005.
5. B. Schlink, "Proportionality in constitutional law: Why everywhere but here?," *Duke Journal of Comparative & International Law*, vol. 22, p. 291, 2011.
6. A. Ristroph, "Proportionality as a principle of limited government," *Duke Law Journal*, vol. 55, p. 263, 2005.
7. V. C. Jackson, "Constitutional law in an age of proportionality," *Yale Law Journal*, vol. 124, p. 3094, 2015.
8. M. Cohen-Eliya and I. Porat, *Proportionality and Constitutional Culture*. Cambridge: Cambridge University Press, 2013.
9. J. Sieckmann, "Proportionality as a universal human rights principle," in *Proportionality in Law: An Analytical Perspective*. Cham: Springer International Publishing, 2018, pp. 3–24.
10. R. Alexy, "Constitutional rights and proportionality," *Revus*, no. 22, pp. 51–65, 2014.
11. B. Pirker, *Proportionality Analysis and Models of Judicial Review*. Groningen: Europa Law Publishing, 2013.
12. E. Ellis, Ed., *The Principle of Proportionality in the Laws of Europe*. Oxford: Hart Publishing, 1999.
13. P. Craig, "Proportionality, rationality and review," *New Zealand Law Review*, p. 265, 2010.
14. A. L. Young and G. De Búrca, "Proportionality," in *Max Planck Encyclopedia of Comparative Constitutional Law*. Oxford: Oxford University Press, 2017.
15. M. Khosla, "Proportionality: An assault on human rights?: A reply," *International Journal of Constitutional Law*, vol. 8, no. 2, pp. 298–306, 2010.

16. J. Cianciardo, "The principle of proportionality: The challenges of human rights," *Journal of Civil Law Studies*, vol. 3, p. 177, 2010.
17. M. Cohen-Eliya and I. Porat, "Proportionality and the Culture of Justification," *American Journal of Comparative Law*, vol. 59, no. 2, pp. 463–490, 2011.

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