

## Contents

1. Constitutions, Rights, and Judicial Power	1
I Concepts and Models	7
II Contracting and Delegation	17
III Constitutional Change	24
Overview of the Book	29
2. Proportionality and Constitutional Governance	30
I Rights, Justification, Constitutional Legality	31
II Strategic Considerations	41
III Constitutional Governance	50
Conclusion	57
3. Emergence and Diffusion	59
I The German Genealogy	60
II The Death of Parliamentary Sovereignty	69
III Proportionality's Empire	80
Conclusion	95
4. All Things in Proportion? The United States	96
I Roots of Proportionality in the United States	97
II Pathologies of Tiered Review	108
III Bringing Proportionality Back In	119
Conclusion	125
5. Constitutional Dialogues	127
I The Legislature	129
II The Administration	143
III The Judiciary and the Private Law	151
Conclusion	161
6. Global Constitutionalism and Transnational Governance	162
I Treaty Regimes and Trustee Courts	163
II Proportionality and Transnational Governance	171
III The Structure of Global Constitutionalism	191
Conclusion	195
<i>Table of Cases</i>	197
<i>References</i>	207
<i>Index</i>	223