

CONTENTS

<i>List of Figures</i>	x
<i>List of Tables</i>	xii
<i>List of Contributors</i>	xiii
<i>Preface</i>	xv
<i>Table of Cases</i>	xvii

Introduction: Analysing Proportionality Comparatively and Empirically 1

TALYA STEINER, ANDREJ LANG, AND MORDECHAI KREMNITZER

I Scholarship on Proportionality: Strands and Development	4
II The Goals of This Book	12
III Methodology and Research Design	14

1 Proportionality Analysis by the German Federal Constitutional Court 22

ANDREJ LANG

I Introduction	22
II Legal and Institutional Context	26
III Structure of Limitation Analysis	35
IV Limitation of a Fundamental Right	48
V Worthy Purpose	60
VI Suitability	77
VII Necessity	89
VIII Strict Proportionality	103
IX Overview of the Means Struck Down	129

2 Proportionality Analysis by the Canadian Supreme Court 134

LORIAN HARDCASTLE

I Introduction	134
II Legal and Institutional Context	136
III Structure of Limitation Analysis	143

IV	Limitation of a Constitutional Right	157
V	Worthy Purpose	162
VI	Suitability or Rational Connection	172
VII	Necessity or Minimal Impairment	177
VIII	Balancing	185
3	Proportionality Analysis by the South African Constitutional Court	193
	RICHARD STACEY	
I	Introduction	193
II	Legal and Institutional Context	197
III	Structure of Limitation Analysis	206
IV	Limitation of a Constitutional Right	231
V	Worthy Purpose	240
VI	Suitability or Rational Connection	252
VII	Necessity or Less Restricting Means	261
VIII	Balancing or Strict Proportionality	268
IX	Overview of the Means Struck Down	280
4	Proportionality Analysis by the Israeli Supreme Court	285
	TALYA STEINER	
I	Introduction	285
II	Legal and Institutional Context	289
III	Structure of Limitation Analysis in Israel	294
IV	Limitation of a Constitutional Right	311
V	Worthy Purpose	318
VI	Suitability or Rational Connection	337
VII	Necessity or Less-Restricting Means	347
VIII	Proportionality in the Strict Sense	365
IX	Overview of the Means Struck Down	382
5	Proportionality Analysis by the Polish Constitutional Tribunal	385
	ANNA ŚLEDZIŃSKA-SIMON	
I	Introduction	385
II	Legal and Institutional Context	387
III	Structure of Limitation Analysis	397
IV	Limitation of a Constitutional Right or Freedom	408
V	Statutory Reservation Requirement	414
VI	Legitimate Aim	419

VII	Suitability	434
VIII	Necessity	439
IX	Proportionality in the Strict Sense	445
X	Overview of the Means Struck Down	455
6	Limitation Analysis by the Indian Supreme Court	458
APARNA CHANDRA		
I	Introduction	458
II	Legal and Institutional Context	464
III	Limitations Analyses in Theory	471
IV	Limitations Analyses in Practice: Overview	480
V	Limitation of a Constitutional Right	492
VI	Worthy Purpose	505
VII	Suitability or Rational Nexus	518
VIII	General Balancing	530
IX	Relationship between Limitation Analysis and Remedies	536
X	Overview of the Means Struck Down	538
7	Comparative and Empirical Insights into Judicial Practice: Towards an Integrative Model of Proportionality	542
TALYA STEINER, ANDREJ LANG, AND MORDECHAI KREMNITZER		
I	Introduction	542
II	The Structure of Proportionality Analysis in Theory and in Practice	545
III	The Significance of the Threshold Stages	555
IV	Necessity and Strict Proportionality	578
V	Proportionality as an Integrative Method of Analysis: Explanatory and Normative Perspectives	591
VI	Future Possibilities for Empirically Grounded Comparative Research on Proportionality	606
	<i>Index</i>	612