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Calling Bullshit 6.6: The Principle of Proportional

Ink ~~Proportionality And Deference Under The~~

The courts use the proportionality test to assess the Convention-compatibility of the full range of government action, from administrative decisions to primary legislation. In applying the test, the courts are often

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conscious of the need to pay some deference to the expertise and competence of other branches of government.

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In applying the test, the courts are often conscious of the need to pay some deference to the expertise and competence of other branches of government. This rigorous analysis of the relationship between proportionality and deference under the Human Rights Act sets out a model of proportionality, drawn from existing case law,

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which integrates deference
within the multi-stage
proportionality test.

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proportionality is closely
related to the self-
restraining judicial
principle that when the

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Courts engage in judicial review they should pay some deference to the judgment of the original decision-maker. To date, there has yet to be a sophisticated analysis of proportionality and deference 1

~~A Structural,
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Model of ...~~

Proportionality and deference under the UK human rights act. the courts use the proportionality test to assess the convention compatibility of the full range of government action, from administrative decisions to primary legislation. in applying the

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test, the courts are often
conscious of the need to pay
some deference to the
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Aug 29, 2020 proportionality

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proportionality test the
model is institutionally
sensitive and can be applied
to proportionality based
judicial review of all forms
of government activity the
model

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applying proportionality,
deference to the decision-
maker is the proper course
in many cases. 17 THE

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CHALLENGE TO BRITISH COURTS

Despite this overlap and despite the perhaps subtle influence of proportionality in traditional judicial review, it has never been a concept applied directly in British administrative law.

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INTRODUCTION : #1

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By Danielle Steel,
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to assess the convention
compatibility of the full
range of government action
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The model is structural in that it takes account of the operation of deference within the process of proportionality. The model is institutionally sensitive in that it takes account of the differences between the institutions which the courts can review under the HRA.

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