To speak of human rights in the twenty-first century is to speak of proportionality. Proportionality has been received into the constitutional doctrine of courts in continental Europe, the United Kingdom, Canada, New Zealand, Israel, South Africa, and the United States, as well as the jurisprudence of treaty-based legal systems such as the European Convention on Human Rights.

Proportionality provides a common analytical framework for resolving the great moral and political questions confronting political communities. But behind the singular appeal to proportionality lurks a range of different understandings. This volume brings together many of the world’s leading constitutional theorists – proponents and critics of proportionality – to debate the merits of proportionality, the nature of rights, the practice of judicial review, and moral and legal reasoning. Their essays provide important new perspectives on this leading doctrine in human rights law.

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Proportionality and the Rule of Law

Rights, Justification, Reasoning

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Preface

This volume originates from a colloquium on proportionality hosted by the Public Law and Legal Philosophy Research Group at the Faculty of Law at the University of Western Ontario. The colloquium’s participants were drawn from legal jurisdictions throughout the common law and civil law worlds, reflecting proportionality’s international reach. Following the colloquium, the papers were revised for publication and additional papers were commissioned to fill in some topical and jurisdictional gaps. The resulting collection provides a comprehensive analysis and critique of proportionality from the perspectives of philosophy, constitutional theory, and law.

We are grateful to the University of Western Ontario, which provided the financial support required to stage the colloquium, and to all of the contributors. It is a privilege to work and learn together with scholars of such distinction.

Bradley W. Miller was the Ann and Herbert W. Vaughan Visiting Fellow in the James Madison Program in American Ideals and Institutions at Princeton University during the 2012–2013 academic year. He acknowledges the outstanding support provided by the Madison Program and its Fellows.

We want to thank Western Law JD students Jeff Claydon, Brandon Duewel, and Danilo Popadic (JD 2013) and Tori Crawford (JD 2014) for the research and editorial assistance that helped us complete the volume.

This is the third collection of essays on constitutional law and legal theory that the Public Law and Legal Philosophy group has published with Cambridge University Press, the first two being *Expounding the Constitution: Essays in Constitutional Theory* (2008) and *The Challenge of Originalism: Theories of Interpretation* (2011). We thank Adrian Pereira and his editorial team for their work on this volume, and our publisher John Berger, who has been an enthusiastic supporter of all three books.

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