

# **PRINCIPLES THEORY, PROPORTIONALITY, AND RATIONALITY**

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# **PRINCIPLES THEORY, PROPORTIONALITY, AND RATIONALITY**

- I. Rules and Principles**
- II. Proportionality**
- III. Weight Formula**

# **PRINCIPLES THEORY, PROPORTIONALITY, AND RATIONALITY**

## **II. Proportionality**

**1. Suitability**

**2. Necessity**

**3. Proportionality in the Narrower  
Sense**

### III. General Form of the Weight Formula

$$W_{i,j} = \frac{I_i \cdot W_i \cdot R_i}{I_j \cdot W_j \cdot R_j}$$

## IV. The Refined Form of the Weight Formula

$$W_{i,j} = \frac{I_i \cdot W_i \cdot R_i^e \cdot R_i^n}{I_j \cdot W_j \cdot R_j^e \cdot R_j^n}$$

### III. Weight Formula

$P_i$  principle  $i$

$P_j$  principle  $j$

$W_{i,j}$  concrete weight of principle  $P_i$

$I_i$  intensity of interference with  $P_i$

$I_j$  intensity of interference with  $P_j$

$W_i$  abstract weight of  $P_i$

$W_j$  abstract weight of  $P_j$

# Weight Formula

$R_i$  reliability of the empirical and normative assumptions concerning the question of how intensive the interference with  $P_i$  is

$R_j$  reliability of the empirical and normative assumptions concerning the question of how intensive the interference with  $P_j$  would be if the interference with  $P_i$  were omitted

# Scalation

## Scale 1

Light (*l*), moderate(*m*), serious(*s*);  
 $2^0, 2^1, 2^2$ ; 1, 2, 4

## Scale 2

Certain (*r*), plausible (*p*), not  
evidently false (*e*);  $2^0, 2^{-1}, 2^{-2}$ ; 1,  
 $\frac{1}{2}, \frac{1}{4}$



# Law of Competing Principles

If principle  $P_i$  takes precedence over principle  $P_j$  in circumstances  $C: (P_i \mathbf{P} P_j)C$ , and if  $P_i$  gives rise to legal consequences  $Q$  in circumstances  $C$ , then a valid rule applies which has  $C$  as its protasis and  $Q$  as its apodosis:  $C \rightarrow Q$ .

# Law of Competing Principles

$P_i$  principle  $i$

$P_j$  principle  $j$

$C$  condition of precedence

$P$  relation of precedence

$Q$  legal consequences of  $P_i$  in  
circumstances  $C$

# The Relation between the Weight Formula and the Law of Competing Principles

$$(1) W_{i,j} > 1 \rightarrow (P_i \mathbf{P} P_j) C$$

$$(2) W_{i,j} < 1 \rightarrow (P_j \mathbf{P} P_i) C$$

$$(3) W_{i,j} = 1 \rightarrow \neg (P_i \mathbf{P} P_j) C \ \& \ \neg (P_j \mathbf{P} P_i) C$$

(stalemate)