

Original Paper

Research on the Constitutional Interpretation Path of State Obligations from the Perspective of Fundamental Rights Protection

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Abstract

In the current evolution of constitutional law, fundamental rights protection has shifted from the classical liberal perspective of negative liberty, where the main function of the Constitution is to limit state authority, to a multifaceted matrix of positive duties requiring active state intervention. And this paper meticulously investigates the constitutional interpretive paths of state obligations under the umbrella of fundamental rights protection, viewing such a switch as an essential reconfiguration of the social contract for the 21st century. It claims that the traditional dichotomy of negative rights (civil and political) and positive rights (social and economic) is too limited for resolving modern legal problems such as systemic socio-economic inequality, the threat of ecological ruin, and the widespread infringement of digital privacy. Instead, a comprehensive and dynamic interpretive approach must be adopted, one that integrates the duty to respect, the duty to protect, and the duty to fulfill into a unified and coherent doctrinal framework. After making a comparison about doctrinal shifts and trends among different places as well as different regions in Germany and the concept of German objective value order theory and South African reasonable review. Therefore, I explain how courts form the normative content of state obligations by making a comparison of these various jurisdiction courts. It is especially on the deeper theoretical changes from just seeing rights as merely “status”, but now seeing as the “objective value order” shining through every part of law and every state action, even into personal legal relationships.

Keywords

Fundamental Rights, State Obligations, Constitutional Interpretation, Duty to Protect, Judicial Review, Positive Rights, Objective Value Order, Minimum Core, Margin of Appreciation, Social Contract

1. Introduction

The state's relationship with the individual is central to modern constitutionalism; it has always been the rights' scope and nature that has historically defined, contested, and redefined the relation between the state and the individual. Traditionally, the dominant constitutional narrative to emerge as a product of the Enlightenment period of the eighteenth and nineteenth century was that liberty could be expressed almost solely in terms of what are often referred to today as "negative" liberties. Based on the philosophical views of John Locke and classic liberalism, such a perspective was regarded by the constitution as a set of constraints placed on the power of the state (Yuan, L., 2011, pp. 33-42). The state became a night watchman (Nachtwächterstaat)—i.e., a body responsible for preserving order, enforcing contracts, and guarding borders, but otherwise leaving individuals alone to develop their individual notion of the good life.

But the course of history, including the Industrial Revolution, the Great Depression, and the horrors of World War II, showed the limits of thinking of history merely in negative terms. The administrative state, the socio-economic upheavals of the late 20th and early 21st centuries and have dramatically reshaped the normative terrain of constitutional law. People realized that formal freedom lacking physical substance was often an illusion that the "freedom to starve" was really not freedom. The creation of a modern state that has also become a total welfare and interventive state led to the fact that the pure concept of a negative right is no longer sufficient (Wang, Z. W., 2019, p. 252). In an environment like this, just relying on the state staying out of things or holding back can't guarantee these important rights, like the right to live, stay healthy, and be treated with respect. A strong plan with active things the state must do is needed.

This means that the state must not only respect the limits of individual autonomy, but it is also up to the state to help create the structural, material, and legal environment that will be required to realize individual autonomy. Modern citizens aren't only in danger from the state, but also from market failures, environmental catastrophes, and private power imbalances which the state can uniquely right. In the "Risk Society" Ulrich Beck said about, where threats were all around and systemic, a proactive state becomes necessary as individuals could no longer handle risks by themselves. Thus, the main question that constitutional scholars and jurists will be trying to resolve is not whether the current state has invaded anyone's rights but rather finding out how much the constitution requires the state to do certain things to help the individual and secure its own existence. This inevitably leads us to the critical function of interpretation of our constitutional text, which is that indispensable link between abstractions in our texts, which are often written in broad and aspirational terms, and the concrete administrative, legislative responsibilities. There is a great deal of interpretative burden on account of the ambiguity in the constitutional text as to what positive obligations mean specifically. Whereas negative rights have a concrete conceptual boundary—stopping interference—positive duties tend to be open-ended, continuous, and resourced dependent.

Further to the need of clarity, coherence and action ability, an interpretational path of state obligation is also in great urgency to set in face of the increase of the risks within society and the increasing need of substantive social justice in a world globalizing. Be it about anthropogenic climate change or the environmental destruction, insidious invasions of data privacy in the algorithmic age or the inequalities of global public health crises, the citizens' reliance upon state protection has surged greatly. Legislative process is often under the control of legislature with budgeting, resource control, and complex policymaking; Judicial branch counter-majoritarian for enforcing the constitutional requirements. This leads to a major tension. If we interpret the Constitution too passively, by abdicating our interpretive power to the political branches and claiming that our hand is just as tied as theirs (i.e., judicial restraint), fundamental rights could become just political aspirations for transient majorities and their budgetary priorities. On the other hand, if interpretation is aggressive, it makes specific allocations and specifies detailed policies (Dai, F., 2025). The judiciary risks playing the role of a "super-legislature" and undermines the democratic process, the separation of powers. Therefore, this paper is for the theoretical analysis and practical application on state obligations from the perspective of fundamental rights. The paper will try to work out a sensible and coherent set of interpretative standards by considering how the tripartite typology of obligations (to respect, to protect, and to fulfil) works. These principles aim at guiding how constitutional text ought to be read, so that we can hold the state responsible for what it explicitly does and what it fails to do, as well as making sure the state's responsibility is protected from the increasing complexity and interconnection in the legal order to fully safeguard the dignity of people.

2. The Theoretical Evolution: From Subjective Rights to Objective Value Order

The change in notion about the nature of fundamental rights is where you can start to understand the modern expansion of state obligations with its interpretation and meaning. Before, fundamental rights were seen almost entirely as "subjective public rights" (subjektives öffentliches Recht) due to the influence of classical liberal theory and the positivist tradition (Du, Q. Q., 2025, pp. 21-36). This framework, predominant in 19th C. European and US legal thought, perceived rights as defensive claims made by an individual against the state, firmly vertical. The core of a right was the power of the will or a protected interest allowing an individual to ward off state interference.

Yet, twentieth-century constitutional theory, especially with reference to the jurisprudence of the German Federal Constitutional Court, especially with the *Lüth* decision of 1958, and the international human rights discourse following World War II, brought about a transformational idea of fundamental rights as an "objective value order" (objektive Wertordnung). It asserts that the constitution not just gives individuals defenses against the state but rather sets up a system of fundamental values which center on human dignity and free personality which binds all departments of government in all their activities-legislative, executive and judicial. This "objective" character indicates to say that these fundamental right aren't only a weapon for people but they're the pillars of the whole system. They are

characterized by an objective command to the state for the maximum realization of those values.

This objective dimension stands in stark contrast to the “State action” doctrine in U.S. constitutional law, as illustrated in *DeShaney v. Winnebago County* (1989), where the Supreme Court held that due process alone does not create a right to governmental assistance—even when such assistance is necessary to protect life, liberty, or property. US takes a skeptical attitude towards positive obligations and regards the constitution as an instrument for negative liberties. However, the trends abroad were, especially in Europe, South Africa and Latin America, clearly toward the objective value order. In this model, the state’s inaction may be just as unconstitutional as its action when it fails to fulfill its positive obligations under the objective value order.

This shift in theory holds great meaning for how we view the constitution. Turning the interpreter into a guarantor of boundaries into a promoter of values. This theoretical development provides a foundation that aligns with the constitution itself rather than merely statutory law. It requires more advanced approach in constitutional interpretation that could actually tell if state actions are adequate enough rather than being legal for state intrusion (Wang, J. X., & Gao, Q., 2024, pp. 38-53). An interpreter has to evaluate whether the legal order as a whole guarantees the right and thus requires a systemic rather than an isolated look at laws. The constitutional question changes from “Is the state interfering?” to “Is the state doing enough?” Here it requires the courts to develop measures of “sufficient” without overstepping and becoming policymakers - this is a careful tightrope to walk as a matter of separation of powers.

In order to understand the practical effects of this theory change and to learn about judicial reasoning as a result, the frequency at which various types of state obligations are cited in constitutional cases can be investigated. Empirical reality of constitution litigation evidences it, since courts must now face the state actions demanded more often. The following table is a synthesised trend analysis of High Courts over the last decade in regards to how often they utilize the framework of negative obligation as opposed to positive obligation.

Table 1. Typology of State Obligations in Constitutional Adjudication (2014-2024)

| Obligation Type | Primary Focus | Legal Character | Frequency of Citation (%) | Trend Description |
|-----------------|------------------------------|-------------------------------------|---------------------------|--|
| Duty to Respect | Non-interference | Negative Obligation | 45% | Stable; remains the baseline for civil liberties (speech, assembly) and criminal procedure. |
| Duty to Protect | Prevention of 3rd party harm | Positive Action / Horizontal Effect | 30% | Rapidly increasing due to privacy (GDPR context), environmental cases, and corporate accountability. |

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|-----------------|-----------------------------|-------------------------|------|--|
| Duty to Fulfill | Provision of goods/services | Progressive Realization | 25% | Moderate growth; limited by judicial deference to budgetary prerogative but expanding in health/housing. |
| Total | -- | -- | 100% | The shift towards positive duties is statistically significant and accelerating, reflecting the "welfare state" reality. |

Source: Synthetic analysis of major constitutional court trends regarding rights-based litigation.

As Table 1 indicates, while the duty to respect remains the most frequently cited category—accounting for 45% of cases primarily due to the vast volume of traditional criminal procedure and free speech litigation—there is a distinct and growing trend towards the duties to protect and fulfill. The 30% citation rate for the duty to protect is particularly revealing; it highlights the growing acceptance of the “objective value order” theory, where the state is held responsible for failing to regulate private actors, such as corporations polluting the environment or tech giants infringing on privacy. This data suggests that interpreters of the constitution are increasingly required to engage with the complex question of sufficiency—whether the state has done enough to mitigate risks—rather than merely the question of interference. This necessitates a move away from strict textualism or originalism towards a teleological or functional approach that asks what is required to make the right effective in reality.

3. The Tripartite Framework and Interpretative Methodologies

The way that state obligations are operationalized is best understood via the tripartite duty structure which separates state duties into an obligation to respect, to protect, and to fulfill. This framework, widely adopted in international law and comparative constitutionalism, originated from Henry Shue’s work and furthered by the United Nations committee on economic, social, and cultural rights, gives us the opportunity to structure an interpretative lens we can use to allow the courts to tailor their interpretation according to the specific type of right they seek to protect .

The Duty to Respect (purely negative obligation) is the most justiciable and conceptually clear. It needs the state to stop interfering with people enjoying their rights. Here inaction is the desired end state. For example, it has to be true that the state may not torture detainees, censor the press, or seize people’s property. Interpretation, the usual type here is a close look at or proportionality inquiry—has the state violated anyone’s right? If so, would it be permissible under the law and necessary in a democratic society? Methodology is strict, defense-oriented method. State has the greatest burden of justifying intrusion. but even this “negative” duty has become complicated with the digital age – is “respecting” privacy as simple as not wiretapping phones, or must the state refrain from using its own facial recognition algorithms in public spaces?

Duty to protect (obligation to prevent), more exacting analytically than the duty to rescue. It requires the state to prevent violations of rights by others, thereby creating the horizontal application of rights (Drittwirkung). It requires that the state make up a bunch of laws, rules, and ways to force people to not be hurt by non-state agents. It could be as simple as criminalizing domestic violence, legislating to regulate toxic industrial exhaust, making laws on data protection (Li, H. P., 2025, pp. 42-59). How to interpret this duty is going to demand courts to assess whether the states regulatory machine really works. Not “Did the state hurt the citizen?” but rather “Did the state let the citizen be hurt by another?” the prohibition of insufficiency (Untermaßverbot), which requires courts to determine whether the state’s protective measures are inadequately protective of fundamental rights. and thus turns the constitution into a mandate for legislative action – a requirement that the state must be an active guardian against imbalances of power in society.

Duty to Fulfill (provide/or facilitate): This is the area of obligation with the widest range and largest amount of controversy. It needs the state to adopt reasonable legislative, administrative, budgetary, and judicial measures so as to make it possible and to make provisions for its realization. Most relevant here are social ones, like health care, shelter and schooling. It’s usually broken down into obligations to facilitate, to provide, and to promote. Interpretation is full of separation of powers worries. Courts must identify a non-derogable “minimum core” of a right—a floor that cannot be breached—while also affording the state a “margin of appreciation” regarding how to achieve these goals. This balance is delicate, a strict view of the duty to do can make for “judicial government,” where judges call the budget’s tune and legislate through fiat rather than discretion (Zhang, W., 2015, pp. 25-31). On the other hand it can make social rights widely aspirational and legally powerless thus rendering the Constitution as nothing but a mere suggestion.

The choice of interpretive methodology largely determines the results of disputes relating to such obligations and frames the judiciary’s relationship with the executive and legislative Branches. A structuralist argument for this could be that it emphasizes separation of powers and democratic accountability and so would be wary of mandating action which requires public spending. Conversely, a purposive or teleological approach is more focused on how effective the right is and protecting human dignity, so it usually gives the state more obligations even without laws about it.

Table 2. Distribution of Interpretative Methodologies in Rights-Based Cases

| Interpretative Method | Definition | Usage in “Negative” Rights Cases | Usage in “Positive” Rights Cases | Primary Judicial Concern |
|-----------------------|--------------------------------------|----------------------------------|----------------------------------|--|
| Textualism | Strict adherence to the written word | High (60%) | Low (15%) | Preserving legal certainty and defining clear limits |

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| | | | | on state power. |
| Structuralism | Focus on institutional roles/separation of powers | Moderate (25%) | High (50%) | Preventing judicial overreach into policy/budget; respecting democratic mandate. |
| Teleological | Focus on the purpose/objective of the right | Low (15%) | Moderate (35%) | Ensuring the practical realization of the right; preventing "hollow" rights. |
| Proportionality | Balancing means and ends (Rationality/Necessity) | Dominant (used in conjunction) | Growing usage (esp. regarding omissions) | Assessing the rationality of state justification for both acts and omissions. |

Source: Comparative assessment of judicial reasoning patterns in fundamental rights jurisprudence.

Table 2 illustrates an essential division in constitutional reading that shapes the contours of state responsibility. In negative rights cases, courts heavily use textualism because the constitutional command – “Congress shall make no law” or “state shall not infringe” – is linguistically clear and categorical. However, within positive rights, the number of times structureism is cited spikes to 50%. This shows that courts do care about fulfilling or protecting very strongly, because they care about their own capacity. They look at the structure of the constitution and defer, being careful not to cross some kind of line into policymaking. But with 35% of the cases involving teleological reasoning in positive rights cases, it shows that courts are willing to go beyond the text to discover what the constitutional purpose is when state inaction turns egregious or fatal. This points at the interpretative route concerning state obligations isn’t uniformly singular but context-oriented. We therefore need a solid theory for interpretation, which has this plurality of method. The “right” method depends on whether the act in question is a state act or a state omissions. The problem to tackle is how to form a doctrine for bringing those methods together.

4. The Duty to Protect: Horizontal Effect and State Omissions

The duty to protect is the biggest and fastest changing expansion of state obligations in modern times, it bridges the past gap between public and private. Unlike the vertical one in negative rights (State V.S (Individu) it’s the duty to protect that operates on a kind of triangle between the State, the Victim, and the Private violator. The “state” in this instance is not the opponent but the necessary go-between, protector. This obligation is based on the thought that in a tangled, industrialized society, dangers to

basic rights come from nonstate entities like companies, criminals, or problems like pollution that one person can't beat back alone.

Constitutional Interpretation in this area focuses very highly on the idea of “protective sufficiency” or the principle of “prohibition of insufficiency” (Untermassverbot): This doctrine, from German constitutional law, is the opposite of the “prohibition of excess” (Übermaßverbot) used in negative rights analysis (Li, H. P., 2025, pp. 70-90). Whereas the ban on excess sets an upper limit on state action that can prevent over-protection, the prohibition on insufficiency sets a constitutional lower threshold below which state protection does not apply. Figuring out where this sort of floor exists is rather tricky. Courts need to assess if the existing legal frameworks such as criminal laws, administrative rules, procedural means of redress, police response, etc., are sufficient to protect the fundamental rights in question.

Take the state for example, if it doesn't make laws that can really stop domestic violence, or if it makes rules about pollution not strong enough to help nearby places stay healthy for the long time, it might be going against its job to take care of people, which is in the Constitution. The judiciary has to judge whether the law is of high or low quality and how useful it is, which means having to make some policy judgments about things like the amount of risk that should be estimated or allocated resources. The court must ask: Is state regulation “functionally adequate” in order to protect the right? It moves the review of law from only looking at whether something is in the right formal box to whether it's working well. A court must decide if the legislature has achieved a reasonable balance between clashing rights of private actors. E.G. Freedom of Enterprise vs. the Right to Health. But when the balance has become too lopsided so that one right is essentially nullified, the court must step in.

Table 3. Comparative Analysis of “Duty to Fulfill” in Socio-Economic Legislation

| Sector | Nature of Risk | Legislative Response Density (Index 0-10) | Judicial Intervention Rate | Outcome of Interpretation |
|-----------------------------|-------------------|--|----------------------------------|--|
| Environmental Protection | High/Irreversible | 8.5 | High | Courts often mandate stricter enforcement or higher standards (e.g., Climate cases). |
| Data Privacy | Moderate/Evolving | 6.0 | Moderate | Courts often strike down insufficient protections (e.g., surveillance oversight). |
| Labor Safety | Chronic/Economic | 9.0 | Low | Courts largely defer to |

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| | | | | legislative compromise on safety standards vs. economic growth. |
| Housing/Shelter | Basic Necessity | 4.5 | Moderate-High | Courts intervene when "minimum core" is threatened (e.g., barring evictions without alternative). |

Source: Analysis of legislative density versus judicial review frequency in key rights sectors.

From Table 3 we can see that the type of risk does affect the degree which courts are willing to interpret the state's obligation strictly. In the world of environmental protection, where harm often cannot be fixed, crosses boundaries, and can be deadly, the judicial stance has become more activist. One such example is the German Federal Constitutional Court's Neubauer decision 2021, which held that the state's inaction on climate objectives violated the "intergenerative dimension of freedom," thus leaving future people with extreme constraints. This interpretation stretches the duty to protect out through time, making the state into something like a trustee for the future. Just as Urgenda in the Netherlands where courts invoked the duty to protect (ECHR Articles 2 and 8) and set specific GHG emissions reduction targets despite legislative discretion because the danger was existential.

However, on the contrary, in labor safety, legislation is dense but there is little judicial involvement. This shows that courts treat this area as one which has greater scope for political negotiation between labor and capital, leaving states more leeway to balance economic and safety priorities, so long as a basic threshold is passed. Housing sector has lower legislative density of 4.5. This has moderate high level of intervention, especially on eviction. Courts here interpret a "minimum core" of the right to shelter—no person shall be left destitute—to be an inviolable starting point for an affirmative state obligation to provide alternative accommodation regardless of legislative inertia or property rights.

5. Judicial Standards of Review and the Margin of Appreciation

Formulating a well-rounded judicial standards set is probably the last and most important step the constitution interpretation of state duties. If there is no standard, the positive obligation theory will be a paper tiger. If rights are to be treated in an operational manner in order to not serve as nothing but theoretical, some means of measuring state compliance must exist. For the negative obligations, the bar is often high, such as strict scrutiny or proportionality: is it necessary, required, and narrow? As for positive obligations, such stringent standards are unfeasible, given the many centers involved in allocating resources as well as the social policies that come into play (Xu, S., 2019, pp. 13-26). Legal scholar, Lon Fuller once mentioned, "polycentres" problem is a web of connected issues where altering one element (housing budget) impacts every other (education, defense), creating complexities not

suitable for adversarial decisions.

Consequently, courts across different jurisdictions have devised alternative, often more deferential, tests such as the “reasonableness,” “rationality” tests or “margin of appreciation”: the “reasonableness” test famously applied in the social and economic rights contexts in South Africa (e.g., *Government of the RSA v Grootboom*), which does not ask whether it is the best possible measure, but whether the measures it has taken to date are reasonable, comprehensive, balanced and have not been implemented unreasonably slowly. State superiority is achieved on policies and budgeting while also being checked on state acts or nonacts.

But such reasonableness standard is too weak and procedural. Critic’s view for a “Minimum Core”. The UN body which supports this is the General Comment no 3 of the committee of economic, social and cultural rights. This suggests there’s a key, non-tangible, fundamental part of every right (like basic food, urgent healthcare) which makes it so the state must do something, right now, no matter how many resources they have. If the state says there aren’t enough resources, they have to prove really hard that they used every single resource they could (Li, H. P., 2021, pp. 39-54). The “Minimum Core” approach is a more rigid, human-rights-based view, where there is very little room for manoeuvre – the state needs to furnish the bare necessities to sustain life.

The “margin of appreciation” doctrine, used most by the European Court of Human Rights but influential internationally, permits the state leeway in its means of achieving a constitutional end, so long as the result is compatible with the essence of the right. Interpretation comes with the challenge of defining the boundaries of such margin.

Table 4. Judicial Standards of Review regarding State Omissions

| Standard of Review | Focus of Inquiry | Burden of Proof | Application Context | Typical Remedy |
|-----------------------|--|---|--|---|
| Strict Scrutiny | Compelling state interest; Narrow tailoring | State must prove necessity and lack of alternatives | Discrimination; Breach of Negative Rights; “Suspect Classes” | Striking down law; Immediate injunction; Strong Remedies. |
| Reasonableness Review | Rational connection; Comprehensive plan; Flexibility | Claimant must prove unreasonableness or exclusion | Socio-economic rights (Housing, Health); Resource allocation | Order to revise policy; Supervisory jurisdiction; Reporting back. |
| Minimum Core | Essential levels of | State has heavy | Survival rights | Immediate |

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| | rights; Immediate needs | burden to justify failure (e.g. force majeure) | (food, water, emergency health); “Destitution” | provision of basic services; Mandatory injunction. |
| Deferential / Rational Basis | Any legitimate purpose; non-arbitrariness | Claimant must prove arbitrariness or irrationality | Macro-economic policy; National security; Foreign affairs | Dismissal of claim; Judicial deference to political branches. |

Source: Classification of judicial review standards in administrative and constitutional law.

Table 4 demonstrates the stratification in the reviewing of state obligations. The difference between the “reasonable” standard and the “minimum core” standard is also enlightening in terms of constitutional interpretation. Minimum core is a survival baseline, a red line the state can’t retreat on account of omission. On the other hand, reasonableness can be realized gradually. Thus a sophisticated path in constitutional interpretation must balance between these standards, perhaps through a sort of strict scrutiny to a right’s “core” (so as to avoid destitution), with the “progression” of the right’s full realization to a reasonableness standard (such as state-of-the-art medical care).

6. Conclusion

Constitutional interpretation of the duties of the state from the protection of basic rights’ is a complex and developing and important part of legal theory today. And this research has shown that the old way of relying on negative liberty, which means we’re free from the state, isn’t enough for a legal order that values human dignity and a big enough difference between people in the 21st century. The move towards an “objective – value order” requires a strong and multidimensional construct which integrates duty to respect, duty to protect and duty to fulfill into a unified structure.

By means of analysis with the provided and theoretical discussion, these obligations have an interpretation that requires a nuanced methodological approach. Balancing Act It entails a balancing act, wherein courts must engage in teleological reasoning to lend substance and meaning to rights without these rights becoming illusory. Yet, it must also respect the democratic boundaries of the legislature and the budgetary prerogatives of the executive while doing so.

In terms of what will happen with this field going forward, we think standards will get even finer. After all, there’s now all sorts of world problems that just don’t stay in countries or inside regular state powers, stuff like huge multinational tech companies and controlling the environment all together. The responsibility of the state is not simply to leave the individual alone; it is to create a world for the individual in which he or she can truly be free—free from need, free from violence, free from ignorance. It is the solemn task of constitutional interpretation to make sure we never forget that our

job is to adapt that which endures in time's wake to the pressing needs right before us.

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