HOHFELD'S THEORY OF JURAL RELATIONS AND ITS RELEVANCE TO MODERN LEGAL RIGHTS

by

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ABSTRACT

Wesley Hohfeld's breakdown of legal rights into eight essential concepts has persisted for more than a hundred years, yet there is debate about its relevance in explaining contemporary rights. This article inquires if the framework continues to be analytically valuable for determining what current constitutional and statutory rights provide, to what extent the power & liability and immunity & disability relationships clarify protections that the terminology of right and duty may obscure, and where the framework encounters its limitations. Through an examination of legal principles and case law concerning Indian constitutional rulings and legislations, such as the Right to Information Act 2005, and notable cases including Navtej Singh Johar, Supriyo, Shayara Bano, Kesavananda Bharati, Puttaswamy, and the Digital Personal Data Protection Act 2023, while contrasting these with the will-interest debate, Halpin's critical simplifications, and MacDonald's recent institutional analysis, this study posits that Hohfeld's framework is most effectively viewed as a diagnostic grammar of rights rather than a theory that provides justification. It reveals the underlying structure of combined rights, demonstrates that a significant number of constitutional guarantees act as immunities safeguarded by disabilities, and recognizes consent-driven systems as exercises of legal authority. It is least effective for positive rights that do not have a clearly defined duty-bearer and provides no insight into the rationale for the existence of rights. The article concludes by offering measured suggestions for legislative drafting and judicial reasoning.

Keywords: Hohfeld; jural relations; power and liability; immunity and disability; legal rights; Indian constitutional law

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1. Introduction

Few terms in legal discussions are as frequently or as loosely used as 'right'. A person involved in a legal case claiming a right to privacy, education, or information may imply that another individual should behave in a certain manner, that she has the freedom to act as she pleases, that her actions have the power to change someone else's legal status, or that the government cannot legally alter her situation. These represent various legal ideas with distinct implications, yet just one word encompasses them all. Wesley Newcomb Hohfeld addressed this problem in his 1913 and 1917 writings. He proposed eight fundamental legal conceptions arranged as correlative and opposite relationships, with the objective of making legal reasoning more precise.[1]

Over a hundred years later, this framework remains essential in legal education, though it is facing challenges. Contemporary legal systems grant rights through constitutional protections that Hohfeld did not confront, through laws that protect personal data offering individuals control over their own information, and through welfare rights where identifying the responsible parties can be complicated. Whether a framework created from private law examples of early 20th-century America can still clarify such rights is not just a theoretical question. If it can, it provides lawyers with precise terminology for determining what a right entails in specific disputes; if it cannot, its significance in educational settings is mainly a matter of tradition.

This article posits that Hohfeld's framework is best viewed as a diagnostic tool for legal rights instead of a theory explaining the existence of rights or their intended protectors. Its usefulness lies in dissecting combined rights into clear positions; its shortcomings arise when a right's meaning relies on justification or when no clear counter-party can be identified. The argument unfolds through three investigative queries:

RQ1. Is Hohfeld's framework still analytically relevant for recognizing what modern constitutional and statutory rights truly secure?

RQ2. To what extent do the relationships of power-liability and immunity-disability clarify protections like consent-based data rights and constitutional restrictions on legislative authority, which the terms of right and duty tend to blur?

[1] WN Hohfeld, *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (Walter Wheeler Cook ed, Yale University Press 1919, reprinted Lawbook Exchange 2000), reproducing 'Some Fundamental Legal Conceptions as Applied in Judicial Reasoning' (1913) 23 Yale LJ 16 and 'Fundamental Legal Conceptions as Applied in Judicial Reasoning' (1917) 26 Yale LJ 710.

RQ3. What limitations does the framework encounter regarding positive rights and rights lacking a specific duty-bearer, and does the recent institutional understanding of Hohfeld help alleviate these issues?

The goals are to reframe the framework in actionable terms, assess it against specific Indian constitutional rulings and statutes, and analyze it in light of major lines of critique. The method combines a detailed examination of Hohfeld's writings with analyses of verdicts from the Supreme Court of India and relevant constitutional and statutory laws, referencing secondary literature. The focus is strictly on legal rights; moral rights are only referenced when pertinent to the discussion. Indian examples are used as they present a unique combination of constitutional protections, a recent data protection law, and both enforceable and non-enforceable social rights. The findings are not intended to be exclusive to India.

2. Literature Review

Hohfeld's writing may be categorized into three categories. The first is to make things clear. As a way of identifying ambiguity, the scheme was praised by early users like Corbin, and Wellman subsequently reconstructed it on the basic ideas of duty and power, positing that a right is best regarded as a collection of Hohfeldian elements arranged around a core position.[2] The approach used on this strand is a descriptive inventory that is rarely questioned for its accuracy and typically uses examples from private law.

The second strand uses Hohfeld's incidents as raw material for a different debate: what a right is for. Hart's version of the will theory connects a right with the holder's control over a correlative duty, particularly through the ability to waive or enforce that duty.[3] MacCormick identified difficulties for this account in relation to children and rights that cannot be surrendered.[4] Raz's interest theory instead treats an individual's protected interest as capable of providing a reason for imposing a duty on another,[5] and Kramer has further developed an interest-based understanding using Hohfeldian terminology.[6] The issue is that a large portion of this literature views counterexamples to Hohfeld's own work as counterexamples to the will or interest theory, confusing a theory of function with a classificatory scheme.

[2] Arthur L Corbin, 'Legal Analysis and Terminology' (1919) 29 Yale LJ 163; Carl Wellman, *A Theory of Rights: Persons under Laws, Institutions, and Morals* (Rowman & Allanheld 1985).

[3] HLA Hart, 'Bentham on Legal Rights' in AWB Simpson (ed), *Oxford Essays in Jurisprudence: Second Series* (Clarendon Press 1973) 171.

[4] Neil MacCormick, 'Rights in Legislation' in PMS Hacker and J Raz (eds), *Law, Morality and Society: Essays in Honour of HLA Hart* (Clarendon Press 1977) 189; Neil MacCormick, *Legal Right and Social Democracy: Essays in Legal and Political Philosophy* (2nd edn, Clarendon Press 1986).

[5] Joseph Raz, *The Morality of Freedom* (Clarendon Press 1986) ch 7.

[6] Matthew H Kramer, 'Rights Without Trimmings' in Matthew H Kramer, NE Simmonds and Hillel Steiner, *A Debate over Rights: Philosophical Enquiries* (OUP 1998) 7.

The third strand is internally critical. Halpin argued that the idea of an 'opposite' is vague, that privilege is not a fundamental conception, and that power may be viewed as a permission connected with a potential legal relationship, allowing the plan to be streamlined.[7] Singer, writing historically, placed Hohfeld within the realist attack on the idea that property and other rights are natural attributes of persons rather than bundles of legal relations.[8] More recently, MacDonald has put forward an 'institutional' perspective that considers Hohfeldian rights as the benefits enjoyed by parties involved in future legal cases. This framework is comprehensive, since legal regulations specify actions or other standards, and in a legal case, only one party can prevail, although it functions fully only under certain rule-of-law conditions.[9]

The framework in Indian education is generally presented through the contributions of Dias and Salmond, accompanied by constitutional examples that demonstrate the power-liability relationship, while key criticisms are briefly covered.[10] What has not been adequately explored is how this framework is continuously applied to the rights that are currently recognized under Indian constitutional law, especially concerning legislative authority limitations and personal data rights. This article seeks to fill part of that gap and, in doing so, to test MacDonald's perspective on how a system with lenient standing rules and an engaged supreme court functions.

3. Research Methodology

This research adopts a doctrinal and analytical research methodology. It primarily examines Hohfeld's original writings on jural relations, relevant legal principles, Indian constitutional and statutory provisions, and Supreme Court decisions. The study also relies on secondary sources, including books, journal articles, and scholarly literature, to examine the theoretical debates and criticisms surrounding Hohfeld's framework. Indian legal examples such as the Right to Information Act, privacy, data protection, education rights, and constitutional limitations are analysed to assess the contemporary relevance and limitations of Hohfeld's theory.

[7] Andrew Halpin, 'Hohfeld's Conceptions: From Eight to Two' (1985) 44 CLJ 435; Andrew Halpin, 'Rights, Duties, Liabilities, and Hohfeld' (2007) 13 Legal Theory 23.

[8] Joseph William Singer, 'The Legal Rights Debate in Analytical Jurisprudence from Bentham to Hohfeld' [1982] Wis L Rev 975.

[9] Paulo Baptista Caruso MacDonald, 'Contextualising Hohfeld's Analysis of Rights: Legal Relations and the Rule of Law' (2026) 39 Ratio Juris 96.

[10] RWM Dias, *Jurisprudence* (first Indian reprint, Aditya Books 1994); PJ Fitzgerald (ed), *Salmond on Jurisprudence* (Indian Economy Reprint, Universal Law Publishing 2008); Rangeen Pallav Tripathy, 'Critical Understanding of Power-Liability Relation in Hohfeld's Analysis' (Module 23, Advanced Jurisprudence, e-PG Pathshala, MHRD).

4. The Scheme: An Operational Account

Hohfeld arranged his eight conceptions in two squares of jural correlatives and jural opposites.[11] The table below restates them for the four basic positions.

Position	Correlative	Opposite
Claim-right	Duty	No-right
Liberty (privilege)	No-right	Duty
Power	Liability	Disability
Immunity	Disability	Liability

Three features matter for what follows. First, every position is relational. A claim-right is held against a particular person who bears the correlative duty, which is why Hohfeld insisted that what is commonly called a single right is often a set of separate relations with different parties.[12] Secondly, the squares separate two orders of position. When discussing liberty and claim-right, the focus is on behavior: it questions if a different person ought to behave in a certain way. Power and immunity concern change: whether a person can by her own act alter legal relations, and whether her relations are exposed to alteration by another. Dias treats duty and power as the two key concepts, duties regulating behaviour and powers creating, modifying or ending duties and other relations.[13] Thirdly, Hohfeld's 'power' is a legal ability and not a physical capacity, and 'liability' implies no harm: a donee is liable to receive a gift.[14]

The distinction between correlative and opposite does the practical work. Y is obligated to settle a debt if X holds a claim-right. X's no-right means that the claim is refused in the same circumstances and is the opposite of X's claim-right. As a result, a defendant asserting a freedom is negating the plaintiff's claim instead of asserting a competing one. Hohfeld warned that having the freedom to take an action does not mean there is a claim-right against interference, something he thinks often happens in legal reasoning.[15]

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5. Applying the Scheme to Modern Rights

[11] Hohfeld (n 1) 36.
[12] ibid 36–44; Hohfeld's later discussion of 'multital' rights appears in the 1917 article reproduced in the same volume.
[13] Dias (n 10) 43.
[14] Hohfeld (n 1) 50–1; Fitzgerald (n 10) 231.
[15] Hohfeld (n 1) 39–44.

5.1 Claim-rights and liberties

A straightforward example of a claim right is the Right to Information Act of 2005. The Act also establishes the correlative duties: public bodies must react to requests within the prescribed period, face penalties for default, and have a system of appeals for refused applicants, as provided by Section 3, which grants every citizen the right to information.[16] The right is nonetheless defeasible. The exemptions in section 8 are best interpreted as giving the authority the freedom to refuse, with the citizen having no right regarding exempted information.[17] The Hohfeldian reading shows what the label 'right to information' conceals: it is a claim-right with a catalogue of liberties carved out of it, and litigation concentrates on the boundary between the two.

The difference between a liberty and a power is clearer still in the same-sex relationship cases. In Navtej Singh Johar v Union of India, the Supreme Court read down section 377 of the Indian Penal Code insofar as it criminalised consensual sexual conduct between adults.[18] In Hohfeldian terms the provision had placed adults under a duty to abstain from certain conduct, and its partial removal restored the liberty. Five years later, in *Supriyo v Union of India*, the petitioners sought something categorically different: the legal power to marry, that is, the ability by their own act to produce the legal relations of marriage.[19] No liberty to live together was in issue; the question was whether the law should confer a power. The majority declined to recognise a fundamental right to marry or to read down the Special Marriage Act 1954, leaving the creation of any new status to Parliament.[20] The two decisions are not inconsistent. They answer different Hohfeldian questions, and MacDonald makes the same point when he notes that the absence of a legal prohibition does not by itself establish the legal power to marry.[21]

5.2 Powers and liabilities in private ordering

Hohfeld's model of power is the contract, and the Indian Contract Act 1872's offer and acceptance framework follows it closely. Once made known, a offer exposes the proposer to a change in legal relationships the other side can cause by acceptance; Hohfeld's own example

[16] Right to Information Act 2005, ss 3, 6–7, 19–20.
[17] ibid s 8(1).
[18] *Navtej Singh Johar v Union of India* (2018) 10 SCC 1.
[19] *Supriyo @ Supriya Chakraborty v Union of India* 2023 INSC 920.
[20] ibid; Special Marriage Act 1954.
[21] MacDonald (n 9) 112 n 20.

was a mailed offer to sell property.[22] Until acceptance, there is only a risk to be categorized under one; there is no need to carry.[23]

Power analysis also clarifies the organization of personal law's unilateral rights. Instantaneous triple talaq left the wife in a similar liability: her legal ties may be changed without her permission; it gave the husband a power to end a marriage by his own pronouncement. Though on different justifications a majority of the Supreme Court in Shayara Bano v Union of India rejected the practice on constitutional and legal grounds.[24] Parliament subsequently enacted the Muslim Women (Protection of Rights on Marriage) Act 2019, which declares such a pronouncement void and illegal and separately makes it an offence.[25] Thus, the Act applies two orders of Hohfeldian position: a disability so that the statement has no legal impact and a duty backed by criminal sanction. The difference is important as the first protects the marriage status of the wife regardless of whether someone persecutes, whereas the second acts only via enforcement.

The same method helps to explain the Digital Personal Data Protection Act 2023. Under the Act, consent is a paradigm power that allows the data principal to move the data fiduciary from a state in which it cannot process her data for a given purpose to one in which it can by a free, specific, informed, and clear affirmative act; she may later revoke that consent.[26] The Act supplements this power with claim-rights against the fiduciary, such as access, correction, erasure and grievance redress,[27] and it confers on the State, and for specified purposes on others, liberties to process without consent, to which the data principal's no-right corresponds.[28] Hohfeld's grammar also gives a precise form to a familiar criticism of notice-and-consent regimes. On his definition, a power is a modification in legal connections brought on by facts under a person's volitional control.[29] In scenarios where take-it-or-leave-it interfaces grant consent, although power is theoretically present, the voluntary control that legitimizes viewing the action as a display of power is diminished. Claim-rights not contingent on approval are therefore not an alternative to the power but a compensation for its weakness.

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[22] Hohfeld (n 1) 50–3; Indian Contract Act 1872, ss 2(a)–(b), 4.
[23] Dias (n 10) 34.
[24] *Shayara Bano v Union of India* (2017) 9 SCC 1.
[25] Muslim Women (Protection of Rights on Marriage) Act 2019, ss 3–4.
[26] Digital Personal Data Protection Act 2023, s 6.
[27] ibid ss 11–14.
[28] ibid ss 7, 17.
[29] Hohfeld (n 1) 50–1.

5.3 Immunities and disabilities: structural rights

Disabilities and immunities define the structural nature of many constitutional rights. Article 13(2) says the State shouldn't pass any legislation that takes away or limits the rights granted by Part III; any such law passed in violation is void to the extent of the contravention.[30] This represents a disability established by legislative power, which grants the right-holder a corresponding immunity. A breach does not lead to a legislative error for which someone could file a claim; on the contrary, the supposed actions do not effectuate any legal amendment. The insistence in Kesavananda Bharati v State of Kerala that the amending power under article 368 does not extend to altering the basic structure of the Constitution is a disability of the same kind, operating on the highest legislative power.[31] In neither case does the immunity depend on a duty owed to a particular individual.[32]

The historical context of article 105(2) demonstrates that the issue of immunity is still up for discussion. The report states that no Parliament member shall be liable for legal action in any court regarding their comments or votes expressed while in Parliament. In PV Narasimha Rao v State, the majority provided safeguards to individuals who were allegedly given bribes to influence their votes; conversely, in *Sita Soren v Union of India* a seven-judge bench overruled that decision and held that bribery is not protected.[33] Each decision draws the boundary of a disability on the courts' power. The Hohfeldian analysis underscores the main concern: it's not a matter of whether members have responsibilities to anyone, as criminal law specifies, but if the courts could legitimately change their legal standing through criminal action.

In private law, minority illustrates a disability whose purpose is protective. A minor's agreement is void under the Indian Contract Act, as the Privy Council held in *Mohori Bibee v Dharmodas Ghose*.[34] The minor lacks the power to bind himself by assent and is correspondingly immune from being bound. Because the immunity is the point of the rule, the law needs no duty on the adult to refrain from contracting; it simply denies the act its effect.

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5.4 Rights as clusters: privacy and education

Most modern rights are clusters rather than single positions, and the scheme's most practical contribution is to let them be taken apart. In *Justice KS Puttaswamy (Retd) v Union of India*, a

[30] Constitution of India 1950, art 13(2).
[31] *Kesavananda Bharati v State of Kerala* (1973) 4 SCC 225; Constitution of India 1950, art 368.
[32] Dias (n 10) 39.
[33] Constitution of India 1950, art 105(2); *PV Narasimha Rao v State (CBI/SPE)* (1998) 4 SCC 626; *Sita Soren v Union of India* 2024 INSC 224.
[34] *Mohori Bibee v Dharmodas Ghose* (1903) 30 IA 114 (PC); Indian Contract Act 1872, ss 10–11.

nine-judge bench recognised privacy as a fundamental right protected under article 21 and Part III of the Constitution, while rejecting earlier understandings to the contrary.[35] The plurality treated privacy as protecting bodily and decisional autonomy as well as informational control, and subjected State interference to requirements of legality, legitimate aim and proportionality. Read Hohfeldianly, the right comprises at least a liberty (to make intimate choices), a claim-right (that data not be collected or disclosed in specified circumstances), a power (to consent to otherwise impermissible disclosure) and an immunity (from legislative or executive action that fails the proportionality test). The proportionality inquiry is the mechanism by which a court decides, case by case, whether the State has a justified liberty or power to intrude, so the content of the right in any dispute depends on which of these positions is in issue.

Article 21A illustrates the opposite problem, in which an abstract entitlement must be converted into concrete relations. The article obliges the State to provide free and compulsory education to children aged six to fourteen in such manner as the State may by law determine. The Right of Children to Free and Compulsory Education Act 2009 supplies the content, imposing duties on identified parties, including governments, local authorities and schools, and its quota for disadvantaged children in private unaided schools was upheld against non-minority schools in *Society for Unaided Private Schools of Rajasthan v Union of India*.[36] Before the Act, the Court had derived a right to education up to fourteen from article 21,[37] but it was the statute that identified who owed what to whom. The sequence bears out a point made by Feinberg and echoed by MacDonald: a generally stated right becomes litigable only when translated into a claim against an identifiable adversary.[38]

6. Limits and Critiques

The first limit concerns rights that lack a determinate counter-party. The directive principles in Part IV are expressly unenforceable by any court, and the fundamental duties in article 51A are not correlated with claims held by anyone.[39] Hohfeld's scheme describes such norms poorly because it presupposes that every duty has a holder of the correlative claim and every claim a bearer of the duty. Feinberg's distinction between 'must-haves' and 'must-dos' marks

[35] *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1, overruling in part *MP Sharma v Satish Chandra* AIR 1954 SC 300 and *Kharak Singh v State of UP* AIR 1963 SC 1295.

[36] Constitution of India 1950, art 21A; Right of Children to Free and Compulsory Education Act 2009, ss 3, 12(1)(c); *Society for Unaided Private Schools of Rajasthan v Union of India* (2012) 6 SCC 1.

[37] *Unni Krishnan JP v State of Andhra Pradesh* (1993) 1 SCC 645.

[38] Joel Feinberg, *Rights, Justice, and the Bounds of Liberty: Essays in Social Philosophy* (Princeton University Press 1980) 140–1; MacDonald (n 9) 110–11.

[39] Constitution of India 1950, arts 37, 51A.

the difficulty: a right to health care states a good that someone must enjoy, but not who is to supply it or how.[40] The scheme can describe the point at which such a right is translated into a determinate claim, as the education example shows, but it is silent on whether the translation ought to occur and cannot say how the duty should be distributed.

The second limit is justificatory. The scheme says what position a person occupies, not why she should occupy it. The will and interest theories address that question and neither is displaced by Hohfeld. The importance of keeping the two inquiries apart is that the usual counterexamples are aimed at theories of function: a will theory struggles with children and inalienable rights, while an interest theory struggles to identify the holder of a claim among several beneficiaries of a duty.[41] Neither shows that the Hohfeldian incidents are mistaken. MacDonald's institutional reading goes a step further by holding that a Hohfeldian right is a position that its holder, or her representative, can claim as plaintiff or defendant, so that children, and anything the law allows to be represented, can hold rights.[42]

Indian experience supports that reading in one respect and strains it in another. It supports it because public interest litigation has relaxed standing in a way that fits the representative conception: in *SP Gupta v Union of India* the Court allowed a bona fide member of the public to move on behalf of persons unable to approach it.[43] On MacDonald's account the person on whose behalf a claim is advanced is the right-holder, so the doctrine causes no embarrassment. It strains the account in relation to his requirement of judgment by pre-existing rules.[44] In *Vishaka v State of Rajasthan* the Court, in the absence of legislation, laid down binding guidelines on sexual harassment at the workplace, creating duties through adjudication rather than by applying earlier rules.[45] The scheme still describes the resulting duties without difficulty; what is affected is the condition on which MacDonald says its full operation depends. My inference is that the grammar is robust to such departures, although the practical certainty with which a claimant can predict her position declines as a system departs from his conditions. They are better regarded as a measure of how reliably a legal system makes its rights claimable than as a precondition of the scheme's use.

Halpin's reductive critique deserves a short answer. Even if privilege can be unpacked into protecting claims and power analysed as permission plus a potential relation, the exercise changes the vocabulary without removing the point that a right may be a claim, a freedom, a

[40] Feinberg (n 38) 140–1.
[41] See nn 3–6 above; MacDonald (n 9) 108.
[42] MacDonald (n 9) 98–9, 108.
[43] *SP Gupta v Union of India* 1981 Supp SCC 87.
[44] MacDonald (n 9) 105–6.
[45] *Vishaka v State of Rajasthan* (1997) 6 SCC 241.

control or a protection, and that these must not be run together. His further observation that a power over one person's legal position typically affects third parties, as when a legal estate is vested and others acquire correlative duties, is better taken as confirming that rights are bundles of relations than as refuting the bilateral scheme, since each such relation can still be stated separately.[46] The same is true of Singer's historical reading, which treats the scheme as an instrument for denying that rights are natural attributes of things and persons, a use for which analytical separation of positions is exactly what is needed.[47]

7. Findings and Conclusion

The first research question can be answered affirmatively. Applied to the Right to Information Act, the same-sex relationship cases, *Puttaswamy* and the education statute, the scheme repeatedly reveals what the shared word 'right' conceals: whether the law has conferred a claim, a freedom, a power or a protection, and against whom. The Navtej and Supriyo pair reveals that decisions that seem to be heading in different directions address many issues.

On the second question, powers and immunities explain much that the vocabulary of right and duty cannot. Constitutional rights framed as limits on legislative power, protected by article 13(2) and the basic structure doctrine, are immunities secured by disabilities and enforced through invalidity rather than liability. In private ordering, the husband's power in triple talaq and permission under the Digital Personal Data Protection Act are powers whose design and critique can be precisely expressed in Hohfeldian terminology.

On the third question, the scheme is least helpful for positive rights without a determinate duty-bearer and is silent on justification. MacDonald's institutional reading mitigates these limits by linking a right to the claims that can be made in adjudication, and Indian public interest practice fits it well, but judicial law-making of the *Vishaka* kind sits uneasily with the requirement of pre-existing rules.

The overall conclusion is that Hohfeld's contribution is diagnostic rather than justificatory. His scheme does not tell lawmakers which rights to create or courts how to weigh them, but it enables both to say exactly what they have created or decided. Three modest recommendations follow. First, courts and drafters should state whether a statutory 'right' is a claim, a liberty, a power or an immunity. Secondly, where a right is delivered chiefly through consent, as in the data protection scheme, claim-rights independent of consent should be preserved and strengthened. Thirdly, where an abstract right is constitutionally recognised,

[46] Halpin, 'Hohfeld's Conceptions: From Eight to Two' (n 7) 435; Halpin, 'Rights, Duties, Liabilities, and Hohfeld' (n 7).
[47] Singer (n 8).

legislation should identify its duty-bearers concretely. Further research might test the scheme against the claims of artificial entities and other emerging legal subjects, where the question of who can be a plaintiff or defendant, and hence a right-holder, is again unsettled.

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