

Judicial Review as a Constitutional Doctrine: Authority, Interpretation, and Democratic Contestation

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Abstract:

Judicial review is often understood as a judicial power derived directly from constitutional supremacy. This article argues that such a view is conceptually incomplete. It re-conceptualizes judicial review as a constitutional doctrine that structures the allocation, contestation, and provisional settlement of interpretive authority among co-ordinate institutions of the state. The article pursues three objectives: to rethink judicial review as an institutional doctrine rather than a judicial monopoly; to examine its relationship with constitutional supremacy and the democratic tensions associated with claims of judicial finality; and to identify the conditions under which it can retain democratic legitimacy without institutional overreach. Methodologically, the study adopts a doctrinal and theoretical approach, combining structural constitutional reasoning with comparative analysis of the United Kingdom, the United States, India, and Bangladesh. It argues that judicial review functions as a mechanism for managing institutional disagreement, and that its legitimacy depends on doctrinal restraint, structural fidelity, and a dialogic understanding of constitutional interpretation.

Keywords: Judicial Review, Constitutional Doctrine, Constitutional Interpretation, Democratic Legitimacy, Comparative Constitutional Law.

1. Introduction

Within contemporary constitutional discourse, judicial review occupies a central yet contested position. It is widely regarded as the primary institutional mechanism for protecting constitutional supremacy and fundamental rights¹. At the same time, it is criticized as a counter-majoritarian practice that allows unelected judges to invalidate the decisions of democratically elected representatives. This tension has made judicial review both indispensable and controversial in modern constitutional theory². Recent scholarship reflects this ambivalence, moving away from theories of judicial supremacy toward approaches that emphasize institutional dialogue, constitutional structure, and shared interpretive responsibility among state actors³.

A persistent analytical error lies in treating judicial review as a monopolistic judicial entitlement over constitutional meaning. This view obscures the deeper constitutional logic of the doctrine. Judicial review is not merely an occasional exercise of judicial authority; it is a structural framework for constitutional interpretation⁴. Properly understood, it organizes the relationship among the judiciary, legislature, and executive, and defines the legal conditions under which constitutional limits on public power are articulated, enforced, and contested. In this sense, judicial review functions less as an instrument of judicial dominance and more as a constitutional mechanism for managing institutional disagreement over constitutional meaning⁵.

This article addresses a central research question:

How should judicial review be conceptually understood within a constitutional system— as an expression of judicial supremacy, or as a doctrinal mechanism that structures the allocation of interpretive authority among co-ordinate institutions of the state?

By re-conceptualizing judicial review as an institutional and doctrinal settlement mechanism rather than a monopolistic judicial entitlement, the article seeks to clarify its normative foundations and democratic legitimacy.

Against this backdrop, this article advances three interrelated propositions. First, judicial review derives its normative authority not from judicial supremacy but from the supremacy of the constitution as an ordering legal framework antecedent to all state action⁶. Second, constitutional interpretation is not the exclusive preserve of courts but a shared institutional obligation incumbent upon all constitutional actors, with judicial determinations occupying a position of conditional, context-sensitive finality rather than absolute interpretive closure⁷. Third, the democratic legitimacy of judicial review is sustained not through institutional dominance or interpretive monopoly, but through principled doctrinal self-restraint, fidelity to constitutional structure, and an ongoing recognition of the dialogic and non-exhaustive character of constitutional interpretation within democratic governance⁸.

1.1 Objectives and Methodological Orientation

The article pursues three closely connected objectives-

- First, it re-conceptualizes judicial review as a constitutional doctrine that regulates the allocation and contestation of interpretive authority among co-ordinate organs of the state, rather than as an exclusive judicial prerogative.
- Second, it examines the doctrinal and normative relationship between judicial review and constitutional supremacy, with particular attention to the democratic tensions created by claims of judicial finality.
- Third, it identifies the conditions under which judicial review can retain democratic legitimacy without leading to institutional dominance or judicial overreach.

Methodologically, the analysis adopts a doctrinal and theoretical approach typical of public law scholarship. It uses structural interpretation to place judicial review within the framework of the separation of powers. It also employs normative constitutional reasoning to assess its justificatory foundations. In addition, it undertakes a comparative analysis, drawing primarily on the constitutional experiences of the United Kingdom, the United States, India, and Bangladesh, in order to highlight similarities and differences in judicial practice. The inquiry is jurisprudential rather than empirical. It proceeds through legal reasoning, doctrinal analysis, and critical engagement with constitutional theory.

1.2 The Original Contribution: Judicial Review as Institutional Settlement

Contemporary constitutional theory has largely organized the debate over judicial review around a familiar polarity. On one side stand theories of judicial supremacy, which treat courts as the ultimate arbiters of constitutional meaning. On the other stand political constitutionalist and democratic critiques, which question the legitimacy of entrusting unelected judges with final authority over democratic outcomes. Between these positions lie dialogic and weak-form theories, which seek to moderate judicial authority through institutional interaction. Despite their differences, these approaches share a common premise: they conceptualize judicial review primarily as a question of which institution should possess final interpretive authority.

This article departs from that premise. It argues that judicial review is best understood not as an allocation of interpretive supremacy, but as a constitutional doctrine of institutional settlement. Courts do not resolve constitutional disagreement by monopolizing constitutional meaning. Rather, they provide authoritative, yet provisional, settlements of concrete disputes within a framework of constitutional supremacy and co-ordinate institutional interpretation.

Under this account, judicial review performs three related functions. First, it operates as a doctrine of settlement, supplying authoritative resolutions that preserve legal stability while remaining open to institutional dialogue. Second, it structures the allocation of interpretive responsibility among the legislature, executive, and judiciary, each acting within its institutional competence. Third, it disciplines judicial authority through doctrines of justiciability, deference, and precedent, ensuring that constitutional adjudication remains bounded and principled.

This reconceptualization offers an alternative to both supremacy-based and purely political accounts of judicial review. It explains how judicial review can preserve constitutional supremacy without collapsing into judicial hegemony, and how it can function as a stabilizing mechanism even in fragile or contested constitutional orders

2. Judicial Review and the Right of Constitutional Interpretation

A foundational misconception within constitutional jurisprudence lies in the assumption that the authority to interpret the constitution is vested exclusively, and exhaustively, in constitutional courts⁹. While *Marbury v. Madison* is routinely invoked as canonical authority for this proposition, a closer doctrinal and structural examination reveals a far more attenuated and conditional claim, one grounded in the functional necessity of constitutional supremacy rather than in any theory of judicial interpretive monopoly¹⁰. Every constitutional office-holder—judicial, legislative, or executive—enters public office under an oath to uphold the constitution, an obligation that is not merely symbolic but normatively constitutive

and interpretively laden¹¹. To uphold the constitution is unavoidably to ascribe meaning to it; constitutional governance would otherwise descend into incoherence were state institutions simultaneously bound by constitutional norms yet epistemically disabled from interpreting those norms in the exercise of their lawful functions¹².

Judicial review, properly situated within this constitutional ecology, does not negate or displace the interpretive authority of political branches, but operates as a secondary, corrective, and adjudicative mechanism, activated principally when constitutional disagreement crystallizes into allegations of constitutional transgression¹³. The judiciary's interpretive role, while undeniably consequential, is neither ontologically superior nor normatively absolute; courts intervene not because they possess exclusive constitutional wisdom, but because constitutional systems require an institutional forum capable of authoritatively settling interpretive conflict in circumstances where inter-institutional disagreement threatens constitutional coherence and legal stability¹⁴. This understanding restores judicial review to its proper doctrinal role as a mechanism of constitutional settlement rather than constitutional authorship¹⁵.

The constitutional experience of the United Kingdom provides a clear illustration of a non-monopolistic model of interpretive authority. Under the classical Diceyan understanding, constitutional interpretation was institutionally dispersed. Parliamentary sovereignty did not deny constitutionalism; rather, it represented a political allocation of ultimate interpretive responsibility. Courts operated as interpreters of constitutional meaning, not as its exclusive owners¹⁶. This pluralist approach was later developed by Griffith's theory of political constitutionalism. Griffith rejected the idea that constitutional disagreement should be settled primarily through courts. He also denied that judges possess superior moral or democratic authority to resolve fundamentally political questions¹⁷. Contemporary jurisprudence, particularly following the enactment of the Human Rights Act 1998 and culminating in *R (Miller) v Secretary of State for Exiting the European Union*, reveals the persistence of this tension: the Supreme Court asserted a bounded authority to delineate constitutional limits on executive power while simultaneously reaffirming parliamentary sovereignty and disclaiming any general judicial mandate to determine political outcomes¹⁸. Contemporary UK jurisprudence shows that this tension has not disappeared. After the Human Rights Act 1998, courts gained a stronger role in constitutional adjudication, but parliamentary sovereignty remained intact. This balance became particularly visible in *R (Miller) v Secretary of State for Exiting the European Union*. In that case, the Supreme Court asserted a limited authority to define constitutional limits on executive action, while still affirming the central role of Parliament in the constitutional order¹⁹.

A similar tension can be observed in the constitutional practice of Bangladesh. The Supreme Court has often played a decisive role during periods of political instability, especially in cases involving constitutional amendments, electoral processes, and the independence of the judiciary²⁰. Decisions relating to the caretaker government system, judicial appointments, and administrative accountability have placed the Court at the Centre of politically sensitive disputes²¹. In these contexts, the Court has sometimes acted assertively to protect constitutional structure, while at other times exercising restraint in matters closely tied to political judgment. Contemporary scholarship notes that this oscillation reflects the unsettled balance between judicial guardianship and democratic process in Bangladesh's evolving constitutional order²².

Taken together, the experiences of the United Kingdom and Bangladesh support the broader theoretical claim that judicial review is not an assertion of interpretive supremacy²³. Rather, it is a contingent institutional response to constitutional disagreement. Its legitimacy depends on restraint, structural fidelity, and a continued recognition that constitutional interpretation is a shared responsibility among co-ordinate organs of the state²⁴.

3. Historical Genesis: From Constitutional Supremacy to Judicial Enforcement

The historical evolution of judicial review substantiates its character as a constitutional doctrine grounded in structural necessity rather than as a discretionary accretion of judicial power²⁵. In *Marbury v. Madison*, Chief Justice Marshall did not articulate a theory of judicial supremacy as an abstract institutional aspiration, nor did he purport to elevate courts above co-ordinate branches as ultimate constitutional sovereigns. Rather, his reasoning proceeded from a more modest yet conceptually decisive premise: that a written constitution, purporting to bind all organs of the state, would be rendered normatively vacuous if courts were compelled to enforce legislative acts notwithstanding their incompatibility with superior constitutional norms²⁶.

Marshall's argument was thus fundamentally structural rather than voluntaristic²⁷. If the constitution constitutes supreme law, and if courts are institutionally obligated to apply law in the resolution of concrete disputes, then courts cannot evade the responsibility of giving precedence to constitutional norms when confronted with conflicting ordinary legislation. Judicial review, on this account, emerges not as an assertion of judicial aggrandizement, but as a logical corollary of constitutional supremacy within a legal order committed to the rule of law²⁸. To deny courts this authority would be to reduce the constitution to a merely political declaration, lacking juridical force at the point of adjudication²⁹.

This structural logic proved portable across constitutional systems, yet its institutional expression varied significantly in accordance with divergent constitutional traditions and political histories. In continental European systems, judicial review was institutionalized in centralized constitutional courts, reflecting a distrust of ordinary judiciaries and a preference for specialized guardians of constitutional legality³⁰. In common law jurisdictions, by contrast, review developed in a decentralized form, exercised incidentally by ordinary courts in the course of adjudication³¹. Post-colonial constitutional

orders frequently adopted hybrid arrangements, combining elements of centralized review with inherited common law practices, often under conditions of political fragility and contested constitutional authority³².

These institutional variations do not undermine the doctrinal coherence of judicial review; rather, they attest to its adaptability as a constitutional mechanism responsive to differing historical and structural contexts. Across jurisdictions, the animating principle remains constant: judicial review functions as the juridical enforcement of constitutional limits upon public power. Its authority derives not from judicial preference or institutional ambition, but from the imperative of preserving constitutional normativity against legislative or executive transgression³³. Properly understood, the historical genesis of judicial review confirms its status as an indispensable instrument of constitutional supremacy, embedded within adjudicative practice yet constrained by the very constitutional order it is designed to uphold³⁴.

4. Judicial Review as a Constitutional Doctrine

To conceptualize judicial review as a doctrine is to apprehend it not as an episodic judicial technique, but as a normatively structured mode of constitutional governance³⁵. Constitutional doctrine mediates between abstract constitutional principles and concrete legal disputes. It supplies the jurisprudential grammar through which constitutional norms are rendered operational, intelligible, and contestable within adjudicative practice. Judicial review performs precisely this mediating role: it translates constitutional supremacy from an abstract ordering claim into a juridically enforceable discipline upon public power³⁶.

As a doctrinal construct, judicial review establishes, first, the conditions under which courts may legitimately invalidate legislative or executive action alleged to be constitutionally infirm. This involves not merely the identification of constitutional inconsistency, but the articulation of threshold questions of justiciability, standing, and institutional competence that determine when judicial intervention is warranted at all. Secondly, judicial review delineates the standards of scrutiny through which state action is assessed, calibrating the intensity of judicial oversight in accordance with the nature of the right implicated, the institutional capacity of the reviewing court, and the constitutional status of the decision-maker whose action is under review. Thirdly, doctrine circumscribes the limits of judicial intervention by demarcating zones of deference, restraint, and non-justiciability, thereby preserving a constitutionally appropriate space for political decision-making. Finally, it polices the institutional boundary between law and politics, ensuring that constitutional adjudication does not collapse into judicial governance or substitute legal reasoning for political judgment³⁷.

Crucially, constitutional doctrine constrains judges no less than it empowers them. Doctrinal coherence, fidelity to precedent, and adherence to established interpretive methodologies function as internal disciplines upon judicial reasoning, operating as structural safeguards against arbitrariness, subjectivism, and institutional overreach. Through doctrine, judicial discretion is rendered accountable to constitutional principle, reasoned justification, and institutional continuity. Judicial review, when detached from this doctrinal infrastructure, loses its normative moorings and risks degenerating into an unprincipled exercise of judicial will—an outcome inimical to constitutionalism itself. Properly understood, it is doctrine that transforms judicial review from a potentially destabilizing power into a constitutionally intelligible, restrained, and legitimate mode of adjudication³⁸.

5. Democratic Tension and the Counter-Majoritarian Critique

The democratic critique of judicial review proceeds from the claim that unelected judges lack legitimate authority to invalidate decisions of electorally accountable representatives. Although intuitively compelling, this objection rests upon an unduly reductive conception of democracy, one that conflates democratic legitimacy with unmediated majoritarian preference³⁹.

Constitutional theory elucidates that democracy is not exhausted by electoral aggregation. Constitutional democracy presupposes antecedent normative commitments that both enable and constrain political choice. Fundamental rights, structural limitations upon public power, and the protection of politically vulnerable minorities are not deviations from democratic governance but constitutive conditions of its possibility⁴⁰.

Judicial review, properly situated, functions as a guardian of these democratic pre-commitments. The counter-majoritarian difficulty dissipates once judicial intervention is understood not as the substitution of judicial will for popular choice, but as the enforcement of constitutional decisions already undertaken by the polity at a higher normative register⁴¹.

This justificatory account does not eliminate the need for restraint. Judicial review remains legitimate only where it is exercised within principled doctrinal limits that respect the institutional role of political branches⁴².

6. Comparative Constitutional Experience

Comparative constitutional practice demonstrates that judicial review, while structurally ubiquitous across constitutional systems, assumes markedly divergent institutional forms and justificatory logics⁴³. These variations do not negate the doctrinal coherence of judicial review; rather, they illuminate the multiple ways in which constitutional orders negotiate the relationship between constitutional supremacy, democratic governance, and judicial authority⁴⁴. The experiences of the United States, the United Kingdom, India, and Bangladesh illustrate distinct yet intersecting models of

constitutional adjudication, each reflecting its own historical anxieties, institutional architectures, and normative commitments.⁴⁵

6.1 United States

In the United States, judicial review is expansive in doctrinal reach yet institutionally moderated through a sophisticated framework of justiciability doctrines, including standing, ripeness, mootness, and the political question doctrine. These doctrines operate not merely as threshold rules of access, but as structural devices that calibrate the relationship between judicial authority and democratic governance within a constitutional system founded upon the separation of powers. Their cumulative effect reflects an embedded recognition that not all constitutional controversies are judicially cognizable, and that constitutional adjudication must remain attentive to the limits of judicial competence⁴⁶.

The structural foundations of this model are traceable to *Marbury v. Madison*, where Chief Justice Marshall articulated judicial review as a logical corollary of constitutional supremacy rather than as an assertion of judicial supremacy⁴⁷. Subsequent jurisprudence refined this structural logic through doctrines of restraint. In *Ashwander v. Tennessee Valley Authority*, Justice Brandeis articulated principles of constitutional avoidance designed to minimize unnecessary judicial confrontation with political branches⁴⁸. Likewise, the political question doctrine, crystallized in *Baker v. Carr*, explicitly acknowledged that certain constitutional questions are textually committed to the political branches or lack judicially manageable standards, and are therefore institutionally inappropriate for judicial resolution⁴⁹.

Standing doctrine further constrains judicial review by requiring concrete and particularized injury, thereby preventing courts from functioning as forums for abstract constitutional disagreement. The Supreme Court's insistence upon injury, causation, and redressability, most notably reaffirmed in *Lujan v. Defenders of Wildlife*, reflects an enduring commitment to confining constitutional adjudication within the bounds of adversarial litigation⁵⁰. Together, these doctrines operate as internal mechanisms of restraint that discipline judicial power without repudiating strong-form judicial review.

At the same time, American courts continue to assert final interpretive authority over constitutional meaning, particularly in matters involving fundamental rights and structural constitutional limits. Judicial review in the United States thus operates as a structurally embedded, yet self-limiting, mechanism of constitutional enforcement—one that combines robust constitutional guardianship with an internally generated jurisprudence of restraint. The American experience demonstrates that strong-form judicial review need not culminate in judicial hegemony, provided it is mediated by doctrines that preserve the distinction between constitutional adjudication and political decision-making.

6.2 United Kingdom

The constitutional experience of the United Kingdom presents a contrasting, yet theoretically illuminating, model. Traditionally anchored in parliamentary sovereignty and an uncodified constitutional order, the UK long resisted strong-form judicial review in favor of political constitutionalism⁵¹. Courts were conceived as interpretive agents operating within, rather than above, the legislative supremacy of Parliament⁵². However, the gradual juridification of constitutional norms—particularly following the enactment of the Human Rights Act 1998—has recalibrated the judicial role without displacing parliamentary sovereignty as the foundational constitutional principle⁵³.

Contemporary UK jurisprudence, most notably in *R (Miller) v Secretary of State for Exiting the European Union*, reflects a cautious but consequential expansion of judicial authority⁵⁴. The Supreme Court asserted its competence to delineate constitutional limits on executive power while simultaneously reaffirming Parliament's ultimate constitutional authority⁵⁵. This model exemplifies a form of weak or dialogic judicial review, in which courts intervene to uphold constitutional structure and legality, yet refrain from claiming final interpretive supremacy⁵⁶. The UK experience underscores the possibility of robust constitutional adjudication without embracing judicial hegemony, thereby reinforcing the conception of judicial review as a bounded, context-sensitive doctrine⁵⁷.

6.3 India

India represents one of the most assertive models of judicial review in the constitutional world. Through the articulation and entrenchment of the basic structure doctrine, the Indian Supreme Court has positioned itself as the ultimate guardian of constitutional identity, empowered even to invalidate constitutional amendments⁵⁸. This doctrinal innovation has played a decisive role in preserving democratic and constitutional continuity during periods of political turbulence⁵⁹. At the same time, the expansion of judicial review in India has intensified concerns regarding judicial overreach, institutional imbalance, and the erosion of democratic accountability⁶⁰. The Indian experience thus illustrates both the emancipatory potential and the destabilizing risks of strong-form judicial review when doctrinal ambition exceeds institutional restraint⁶¹.

In recent decades, the Indian Supreme Court has further expanded its constitutional role through the development of public interest litigation, expansive rights interpretation, and the use of structural remedies. The Court has intervened

in areas ranging from environmental protection and electoral transparency to social welfare entitlements and administrative governance⁶². These interventions have often been justified as necessary responses to executive inaction or legislative failure. Contemporary scholarship, however, notes that such judicial assertiveness has blurred the boundary between constitutional adjudication and policy-making. While the Court's activism has strengthened rights protection and accountability, it has also raised concerns about institutional competence, democratic legitimacy, and the proper limits of judicial power⁶³.

More recent constitutional developments have intensified these debates. Controversies surrounding judicial appointments, the National Judicial Appointments Commission (NJAC) decision, and the Court's engagement with issues such as privacy, citizenship, and executive authority have highlighted the Court's central role in shaping constitutional identity⁶⁴. The Supreme Court's recognition of privacy as a fundamental right in *Justice K.S. Puttaswamy (Retd.) v. Union of India*⁶⁵ and its subsequent involvement in politically sensitive constitutional disputes illustrate both the transformative capacity of judicial review and the risks associated with concentrated judicial authority. Recent scholarship suggests that the Indian experience demonstrates the need for clearer doctrinal limits, institutional dialogue, and a more structured theory of constitutional adjudication to preserve democratic balance⁶⁶.

6.4 Bangladesh

In Bangladesh, judicial review has assumed a constitutionally indispensable role, particularly during periods of democratic fragility, constitutional rupture, and political instability. From the early years of constitutional adjudication, the Supreme Court has been required to operate not merely as an interpreter of constitutional text, but as a guardian of constitutional continuity in the face of executive excess, military intervention, and episodic erosion of representative governance⁶⁷. Judicial review has thus emerged as a central stabilizing mechanism within the constitutional order, often exercised under conditions of acute political contestation.

A foundational moment in this jurisprudential trajectory is found in *Anwar Hossain Chowdhury v Bangladesh*, where the Appellate Division invoked the doctrine of basic structure to invalidate a constitutional amendment that compromised judicial independence⁶⁸. By doing so, the Court entrenched constitutional supremacy as a substantive limitation upon constituent power. This guardianship was further reinforced in *Bangladesh Italian Marble Works Ltd v Government of Bangladesh*, where the Court repudiated the constitutional legitimacy of martial law proclamations and extra-constitutional regimes, reasserting the primacy of constitutional legality over revolutionary or expedient assertions of authority⁶⁹.

Beyond moments of constitutional breakdown, the Supreme Court has increasingly been called upon to arbitrate questions concerning separation of powers, fundamental rights, and administrative accountability in the ordinary course of governance. While this expanded role has strengthened constitutional oversight, it has also heightened concerns regarding judicial overreach and institutional imbalance within a still-consolidating democratic system⁷⁰.

More recent constitutional controversies further illustrate the judiciary's structurally sensitive role. For instance, litigation surrounding the independence of the lower judiciary, electoral processes, and the limits of executive discretion in administrative governance has repeatedly drawn the Supreme Court into politically sensitive disputes. In these contexts, the Court has oscillated between assertive constitutional enforcement and cautious institutional restraint, reflecting the continuing tension between constitutional guardianship and democratic process within Bangladesh's evolving constitutional order. These contemporary developments demonstrate that judicial review in Bangladesh operates less as a settled doctrine of judicial supremacy and more as a context-dependent mechanism of constitutional stabilization.

The long-term legitimacy of judicial review in Bangladesh therefore depends upon doctrinal coherence, principled reasoning, and resistance to politicization. Where judicial intervention is grounded in constitutional text, structure, and precedent, it functions as a stabilizing force that reinforces democratic governance and constitutional fidelity. Where adjudication risks drifting into ad hoc or politically inflected reasoning, however, judicial review threatens to become a surrogate for political accountability. Properly situated, judicial review in Bangladesh must operate as a mechanism of constitutional stabilization rather than political substitution⁷¹.

7. Limits and Self-Restraint

The legitimacy of judicial review depends upon a principled recognition of its limits. Courts must distinguish between constitutional violations and ordinary political disagreement, lest constitutional adjudication collapse into judicial substitution of policy judgment.

Doctrines of non-justiciability,⁷² proportionality, and deference operate as structural constraints on judicial authority. They define the boundaries of adjudicative competence and preserve constitutionally appropriate space for political decision-making.

Judicial review remains a legitimate constitutional practice only when exercised within these doctrinal limits. Untethered from such constraints, it risks transforming courts into de facto super-legislatures, thereby undermining both democratic accountability and the normative foundations of constitutionalism.

8. Conclusion

Judicial review is neither an undemocratic anomaly that must be removed from constitutional design nor a judicial entitlement beyond normative scrutiny. It is better understood as a constitutional doctrine. Its authority flows from constitutional supremacy, its legitimacy depends on fidelity to democratic self-government, and its durability rests on principled doctrinal restraint. The justification for judicial review lies not in the institutional status of courts, but in the disciplined way constitutional limits are articulated, applied, and internalized within the legal order.

The central task of contemporary constitutionalism is therefore not to abolish judicial review, nor to treat it as an unquestionable judicial prerogative. The task is to discipline it within the constitutional order. Judicial review must function as a bounded and principled mechanism of institutional settlement—one that enforces constitutional supremacy while preserving democratic agency among co-ordinate branches of the state.

Only under such conditions can judicial review sustain its legitimacy as an indispensable, yet restrained, feature of constitutional governance.

9. Conflict of Interest Declaration

The author states that there are no financial, professional, or personal conflicts of interest that may have affected the data's preparation, analysis, or interpretation in this Article.

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72. Doctrines of non-justiciability are constitutional or procedural principles through which courts decline to adjudicate certain disputes, not because the issues are unimportant, but because they are considered institutionally inappropriate for judicial resolution.
73. Tushnet M, 'New Forms of Judicial Review and the Persistence of Rights- and Democracy-Based Worries' (2003) 38 *Wake Forest Law Review* 813.
74. *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1 (SC).
75. Khosla M, *India's Founding Moment: The Constitution of a Most Surprising Democracy* (Harvard University Press 2020).