

KANT'S CATEGORICAL IMPERATIVE AND THE DEMOCRATIC LEGITIMACY OF JUDICIAL REVIEW: A PHILOSOPHICAL REASSESSMENT

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Abstract

The compatibility of judicial review with democratic governance remains one of the most contentious issues in contemporary political and legal philosophy. While judicial review is often defended as a mechanism for protecting constitutional rights and limiting governmental excesses, critics argue that it grants unelected judges excessive authority over decisions that ought to be determined by the people and their elected representatives. This paper examines the democratic legitimacy of judicial review through the lens of Immanuel Kant's categorical imperative. Drawing primarily on Kant's conception of justice, freedom, and universal law, the study argues that democratic institutions derive their legitimacy from moral principles rooted in rationality, equality, and accountability. The paper contends that the categorical imperative provides an ethical foundation for democratic governance because it requires individuals and institutions to act according to principles capable of universal application. Employing a conceptual and critical philosophical methodology, the study evaluates the relationship between democracy and judicial review and assesses whether judicial institutions, particularly in Africa, operate consistently with democratic values. It argues that judicial review becomes democratically legitimate only when judicial authority is exercised in accordance with universal principles of justice, accountability, and public responsibility. The paper concludes that strengthening judicial accountability and ethical leadership, while preserving judicial independence, offers a viable pathway for reconciling judicial review with democratic governance in contemporary African states.

Keywords: Categorical imperative, democracy, judicial review, accountability, justice, Kant.

1. Introduction

The stability and legitimacy of every democratic society depend largely on the effectiveness of its institutions. Among the institutions that sustain constitutional democracy, the judiciary occupies a unique position because it is entrusted with the interpretation of laws, the settlement of disputes, and the protection of constitutional order. In democratic systems, citizens rely on the judiciary not merely as an institution of adjudication but also as a guardian of justice and the rule of law. The judiciary therefore serves as one of the principal mechanisms through which democratic values are preserved and enforced.

The importance of the judiciary is closely linked to the doctrine of separation of powers, which allocates legislative, executive, and judicial functions to separate institutions. This arrangement seeks to prevent the concentration of power and establish a system of checks and balances capable of promoting accountability and good governance. While the legislature enacts laws and the executive implements them, the judiciary interprets and applies those laws. The effectiveness of democracy consequently depends on the ability of the judiciary to discharge its responsibilities impartially, independently, and in accordance with established legal principles.

Despite its constitutional significance, the judiciary has become the subject of increasing criticism in many developing democracies, particularly in Africa. Concerns regarding delays in judicial proceedings, allegations of corruption, political interference, selective justice, and controversies surrounding judicial appointments have raised questions about the effectiveness and legitimacy of judicial institutions. In Nigeria, for example, public debates concerning election petitions, constitutional disputes, and judicial accountability have intensified concerns regarding the role of courts in democratic governance.

These concerns have generated a broader philosophical question concerning the compatibility of judicial review with democracy. Judicial review refers to the power of courts to examine legislative and executive actions and determine their conformity with constitutional provisions. Although judicial review is often justified as a safeguard against governmental abuse and constitutional violations, critics contend that it places substantial political authority in the hands of unelected judges. Consequently, debates persist regarding whether judicial review strengthens democracy by protecting rights or weakens it by limiting popular sovereignty.

This debate is particularly important because democracy is not merely a political arrangement but also a moral enterprise founded upon principles of justice, equality, liberty, and participation. The legitimacy of democratic institutions therefore depends not only on legal procedures but also on their conformity with ethical principles. It is within this context that the philosophy of Immanuel Kant becomes relevant.

Kant's moral philosophy, especially his doctrine of the categorical imperative, provides one of the most influential frameworks for understanding justice, freedom, and moral obligation. According to Kant (1797/1991), justice requires that the freedom of each person be capable of coexisting with the freedom of all others under universal laws. Similarly, the categorical imperative requires individuals to act only according to principles that they can rationally will to become universal laws (Kant, 1785/1998). These principles offer a powerful ethical foundation for evaluating democratic institutions and assessing their commitment to justice.

The present study therefore examines judicial review through the prism of Kant's categorical imperative. It argues that the democratic legitimacy of judicial review cannot be adequately assessed solely in procedural terms but must also be evaluated according to the moral standards of universality, equality, accountability, and rational freedom. The paper seeks to demonstrate that judicial review is compatible with democracy only when judicial institutions operate in accordance with the ethical principles that justify democratic governance itself.

To achieve this objective, the paper is divided into four major sections. The first examines Kant's theory of justice and the categorical imperative as a moral foundation for democracy. The second investigates the philosophical debate concerning democracy and judicial review. The third evaluates the democratic legitimacy of judicial review within a Kantian framework, with particular attention to contemporary African democracies. The final section presents concluding observations and recommendations.

1.1 Methodology

This study adopts a qualitative philosophical methodology based on conceptual, normative, and critical analysis. The research relies primarily on textual examination and interpretation of relevant philosophical and political theories concerning democracy, justice, and judicial review. Particular emphasis is placed on the political and moral philosophy of Immanuel Kant, especially his doctrine of the categorical imperative

as articulated in *Groundwork of the Metaphysics of Morals*, *The Metaphysics of Morals*, and *Practical Philosophy* (Kant, 1991, 1997, 1998).

The conceptual dimension of the study involves the clarification and analysis of key concepts such as democracy, judicial review, justice, freedom, accountability, legitimacy, and moral duty. Since these concepts are often employed in different ways within legal and political discourse, conceptual analysis is necessary for establishing a coherent framework for evaluating the relationship between democracy and judicial review.

The normative aspect of the study evaluates judicial review against Kantian moral principles, particularly the principles of universalizability, respect for persons, autonomy, and duty. These principles serve as evaluative standards for assessing whether judicial institutions and judicial decision-making processes conform to the ethical requirements of democratic governance. The study therefore examines not only what judicial review is but also what it ought to be within a morally grounded democratic order.

Furthermore, the paper employs critical analysis to engage with competing perspectives on judicial review, particularly the arguments advanced by Waldron (1999) and Bellamy (2007). Their critiques of judicial review are examined alongside constitutionalist defenses of judicial oversight in order to evaluate the democratic legitimacy of judicial institutions. Through this analytical approach, the study seeks to determine whether judicial review can be reconciled with democratic principles when viewed through the lens of Kant's categorical imperative.

The methodology is appropriate because the study is primarily philosophical and theoretical rather than empirical. Its objective is not to generate statistical data but to provide a reasoned normative assessment of the moral foundations of judicial review and its implications for democratic governance, particularly within contemporary African democracies.

2. Kant's Theory of Justice, the Categorical Imperative, and Democracy

The relationship between morality and politics occupies a central position in Immanuel Kant's practical philosophy. Unlike political theories that derive legitimacy from utility, power, tradition, or social convention, Kant grounds political authority in moral reason. His theory of justice is therefore inseparable from his broader ethical project, particularly the doctrine of the categorical imperative. For Kant, justice is not merely a legal arrangement designed to maintain social order; rather, it is a rational and moral condition under which the freedom of each individual can coexist harmoniously with the freedom of all others under universal laws (Kant, 1797/1991).

Kant's philosophy begins with the assumption that human beings are rational agents capable of autonomous action. Because individuals possess reason, they are capable of determining moral principles for themselves and acting according to those principles. This capacity for rational self-legislation distinguishes human beings from other creatures and forms the basis of moral responsibility. Consequently, political and legal institutions derive their legitimacy not from coercive power alone but from their conformity to principles that rational beings can universally endorse.

In *The Metaphysics of Morals*, Kant (1797/1991) defines right or justice as "the sum of the conditions under which the choice of one can be united with the choice of another in accordance with a universal law of freedom" (p. 230). This definition is significant because it links justice directly to freedom. For Kant, freedom is not the absence of restraint but the condition in which individuals exercise their choices in a

manner compatible with the equal freedom of others. Justice therefore exists when legal arrangements ensure that the liberty of one person does not become an obstacle to the liberty of another.

The universal principle of justice is consequently expressed in Kant's proposition that individuals should act externally in such a way that the free use of their choices can coexist with the freedom of everyone else according to a universal law (Kant, 1797/1991). Justice thus becomes the institutional embodiment of rational freedom. Any legal or political arrangement that undermines the equal freedom of persons cannot be regarded as just because it violates the conditions necessary for universal coexistence.

This conception of justice is closely connected to Kant's doctrine of the categorical imperative. The categorical imperative constitutes the supreme principle of morality and serves as the foundation of all moral obligations. Unlike hypothetical imperatives, which prescribe actions as means to achieve particular goals, the categorical imperative commands unconditionally. It requires obedience irrespective of personal desires, interests, or expected consequences (Kant, 1785/1998).

The first formulation of the categorical imperative states:

"Act only according to that maxim whereby you can at the same time will that it should become a universal law" (Kant, 1785/1998, p. 31).

This formulation introduces the principle of universalizability. Every action must be evaluated according to whether the principle guiding it could reasonably be adopted by all rational beings. Actions based on deception, favoritism, corruption, discrimination, or exploitation fail this test because their universal application would undermine the very conditions that make social cooperation possible.

The principle of universalizability has profound implications for political institutions. Public officials, legislators, judges, and political leaders must exercise authority according to principles capable of universal application rather than according to personal interests or sectional considerations. A political decision that cannot be justified as a universal principle lacks moral legitimacy regardless of its legal validity. Thus, the categorical imperative establishes a moral standard by which governmental actions may be evaluated.

The second formulation of the categorical imperative deepens this moral requirement. Kant (1785/1998) states:

"Act in such a way that you treat humanity, whether in your own person or in that of another, always at the same time as an end and never merely as a means" (p. 38).

This formulation introduces the principle of human dignity. Human beings possess intrinsic worth because they are rational agents capable of moral self-determination. Consequently, individuals should never be manipulated, exploited, or sacrificed merely to advance the interests of others. Every person must be respected as an end in themselves.

The relevance of this principle to democratic governance cannot be overstated. Democracy derives much of its moral appeal from the recognition of the equal worth of citizens. Democratic institutions are founded on the assumption that all persons possess equal moral status and therefore deserve equal opportunities to participate in public life. Elections, representation, political participation, civil liberties, and constitutional rights all reflect the democratic commitment to treating individuals as ends rather than merely as instruments of political power.

Kant's third formulation of the categorical imperative further strengthens the connection between morality and democracy. According to this formulation, individuals should act as though they were both subjects and legislators in a universal kingdom of ends (Kant, 1785/1998). Rational beings are therefore not merely bound by moral laws; they also participate in the creation of those laws through reason. This conception closely resembles the democratic ideal of self-government, in which citizens collectively participate in determining the laws and institutions under which they live.

The democratic implications of Kant's moral philosophy become even clearer when democracy is understood beyond its procedural dimensions. Democracy is often defined as government by the people, either directly or through elected representatives. However, democracy also embodies substantive values such as liberty, equality, justice, participation, accountability, and respect for human dignity (Held, 2006). These values are not accidental features of democracy; they constitute the moral foundations that justify democratic governance.

Indeed, democratic theorists have long emphasized that legitimate government must rest upon the consent of the governed. This tradition is evident in the political thought of John Locke and Jean-Jacques Rousseau. While Locke emphasized political consent as the basis of governmental legitimacy, Rousseau developed the notion of the general will as an expression of collective self-determination. According to Sabine and Thorson (1973), Rousseau's political philosophy sought to establish a moral foundation for political authority by grounding it in the common good rather than private interests. These ideas resonate strongly with Kant's insistence that moral action must transcend individual inclinations and be guided by principles capable of universal acceptance.

The moral foundation of democracy is therefore inseparable from the notion of the common good. Democratic governance seeks to promote conditions under which all members of society can flourish. This objective requires public institutions to pursue policies that benefit the community as a whole rather than privileged groups or individuals. The common good becomes possible only when citizens and leaders alike act according to principles of justice, fairness, and mutual respect.

This point finds support in Asouzu's (2006) critique of self-interest and ethnocentric thinking. According to Asouzu, human interests possess an ambivalent character because they are capable of generating both positive and negative outcomes. Individuals often mistake personal interests for universal interests and consequently engage in actions that undermine social harmony. Such errors, he argues, contribute to various forms of deviant behaviour and social conflict. Kant's categorical imperative provides a corrective to this tendency by requiring individuals to evaluate their actions from a universal rather than a purely personal standpoint.

Furthermore, Kant's concept of good will occupies a central place in his moral philosophy and offers additional insight into the ethical foundations of democracy. Kant (1785/1998) famously argues that nothing can be considered unconditionally good except a good will. Talents, intelligence, wealth, power, and even happiness may become harmful if not guided by morally upright intentions. Good will derives its value not from the consequences it produces but from its commitment to acting from duty.

The significance of good will for democratic governance is evident. Democratic institutions function effectively only when public officials exercise authority responsibly and in accordance with moral obligations. Laws, constitutions, and institutional frameworks cannot by themselves guarantee justice. Their effectiveness depends largely upon the ethical disposition of those entrusted with public authority.

When political leaders, legislators, and judges act from self-interest rather than duty, democratic institutions become vulnerable to corruption, abuse of power, and injustice.

Consequently, Kant's categorical imperative provides a compelling moral foundation for democracy. The principles of universalizability, human dignity, rational autonomy, duty, and good will reinforce the democratic values of equality, participation, accountability, and justice. Democracy flourishes when institutions and citizens alike are guided by these principles, and it deteriorates when political actors abandon them in pursuit of personal or sectional interests.

From this perspective, the challenges confronting many contemporary democracies are not merely institutional but fundamentally moral. The sustainability of democratic governance depends upon the extent to which political institutions embody the ethical principles that justify their existence. It is against this philosophical background that the question of judicial review and its compatibility with democracy must now be examined.

3. Democracy and Judicial Review: The Philosophical Debate

The institution of judicial review occupies a controversial position within democratic theory. While it is widely regarded as an important constitutional mechanism for safeguarding rights and maintaining the rule of law, it has also generated persistent concerns regarding its compatibility with democratic governance. At the heart of the controversy lies a fundamental question: how can a democratic system justify granting unelected judges the authority to invalidate decisions made by elected representatives of the people?

This question has become increasingly significant in contemporary constitutional democracies because courts are often called upon to decide matters with profound political consequences. Electoral disputes, constitutional amendments, legislative validity, executive actions, and questions concerning fundamental rights frequently fall within the jurisdiction of judicial institutions. As courts become more involved in these matters, debates concerning the democratic legitimacy of judicial review become unavoidable.

Judicial review refers to the authority of courts to assess the constitutionality of legislative and executive actions and, where necessary, invalidate actions that violate constitutional provisions. The practice is generally justified on the grounds that constitutional supremacy requires an independent institution capable of ensuring that governmental actions remain within constitutional limits. In this sense, judicial review functions as a mechanism for preserving constitutional order and protecting citizens against arbitrary governmental power.

Supporters of judicial review argue that constitutional democracy requires more than periodic elections and majority rule. They contend that democratic governance must also include safeguards against abuses of power, protection of minority rights, and preservation of constitutional principles. Judicial review is therefore viewed as an institutional safeguard designed to ensure that governments remain accountable to the constitutional framework from which their authority derives.

However, critics maintain that judicial review creates a democratic deficit by transferring significant political authority from elected representatives to appointed judges. Unlike legislators, judges are generally not elected by citizens and are often insulated from direct political accountability. Consequently, questions arise regarding the legitimacy of allowing courts to overturn decisions reached through democratic processes.

Among the most influential critics of judicial review is Jeremy Waldron. In *Law and Disagreement*, Waldron (1999) challenges the assumption that courts possess superior competence in resolving disputes concerning rights. According to him, disagreements about rights are inevitable in democratic societies because citizens hold different moral, political, and philosophical convictions. Since no institution possesses a monopoly on moral wisdom, there is little justification for transferring final authority on such matters from legislatures to courts.

Waldron's criticism rests upon both substantive and procedural considerations. On substantive grounds, he questions whether courts are demonstrably more effective than legislatures in protecting rights. Judicial decisions, like legislative decisions, are made by fallible human beings who may disagree about constitutional values and moral principles. Consequently, there is no conclusive evidence that judicial review consistently produces better outcomes than democratic deliberation.

More significantly, Waldron advances a procedural critique of judicial review. He argues that legislatures possess greater democratic legitimacy because they are composed of representatives elected by citizens and accountable through regular elections. Legislative decision-making embodies the democratic values of participation, representation, and political equality. Judicial review, by contrast, empowers a relatively small group of unelected judges to invalidate decisions reached through representative democratic processes.

According to Waldron (1999), judicial review may undermine democracy because it privileges the judgments of judges over the collective decisions of citizens and their representatives. Such an arrangement risks weakening political participation and reducing the influence of ordinary citizens in matters that affect their lives. From this perspective, judicial review appears difficult to reconcile with the democratic ideal of self-government.

A related critique is developed by Richard Bellamy (2007) through his theory of political constitutionalism. Bellamy rejects the notion that constitutional rights are best protected through judicial enforcement. Instead, he argues that democratic institutions themselves provide the most appropriate mechanisms for protecting rights and resolving political disagreements. In his view, constitutional values are more effectively preserved through representative politics, public deliberation, and electoral accountability than through judicial intervention.

Bellamy's political constitutionalism rests upon the assumption that democratic processes embody important constitutional values. Electoral competition, legislative deliberation, public participation, and political accountability provide opportunities for citizens to influence public decisions and challenge governmental actions. According to Bellamy (2007), democracy itself constitutes a constitutional safeguard because it enables citizens to participate in shaping the rules under which they live.

The significance of Bellamy's argument lies in its emphasis on political equality. Judicial review may unintentionally weaken political equality by granting disproportionate influence to judges. Decisions concerning rights and public policy are removed from democratic arenas and transferred to judicial forums where ordinary citizens exercise relatively limited influence. Consequently, Bellamy argues that excessive reliance on judicial review may undermine rather than strengthen democratic governance.

Despite the force of these criticisms, defenders of judicial review insist that democracy cannot be reduced to majority rule. Democratic societies must also protect fundamental rights and prevent majorities from

oppressing minorities. History provides numerous examples of democratic majorities supporting policies that violated basic principles of justice, equality, and human dignity. In such situations, constitutional safeguards become essential.

The concern that majorities may abuse their power has deep roots in democratic theory. Democratic institutions are designed not only to express popular preferences but also to constrain arbitrary exercises of power. Judicial review contributes to this objective by ensuring that governmental actions conform to constitutional standards. Courts therefore serve as guardians of constitutional principles, particularly when political institutions fail to protect vulnerable groups.

From this perspective, judicial review does not necessarily oppose democracy but rather complements it. Democracy requires both popular participation and constitutional restraint. Majority decisions derive legitimacy from democratic participation, but constitutional principles provide limits beyond which governmental power cannot legitimately extend. Judicial review serves as the institutional mechanism through which those limits are enforced.

The tension between democracy and judicial review therefore reflects a broader tension between two competing conceptions of democratic legitimacy. One conception emphasizes popular sovereignty, majority rule, and political participation. The other emphasizes constitutionalism, rights protection, and legal constraints on political power. Modern constitutional democracies attempt to reconcile these competing principles by combining representative institutions with independent judicial oversight.

This debate acquires particular significance in emerging democracies, especially in Africa, where courts frequently adjudicate politically sensitive disputes. Electoral petitions, constitutional controversies, and challenges to governmental authority often place judges at the centre of national political debates. As a result, public confidence in democratic institutions increasingly depends upon perceptions of judicial impartiality and legitimacy.

In many African states, including Nigeria, concerns regarding judicial corruption, political interference, delays in adjudication, and controversial judicial decisions have intensified skepticism about the role of courts in democratic governance. The problem, however, may not lie in judicial review itself but in the manner in which judicial authority is exercised. Judicial review becomes problematic when courts appear detached from democratic values, inconsistent in their reasoning, or susceptible to external influences.

This observation provides a useful transition to a Kantian evaluation of judicial review. The central issue is not simply whether judges should possess the power of constitutional review but whether that power is exercised in accordance with universal principles of justice. If judicial institutions operate according to principles of impartiality, accountability, rationality, and respect for equal freedom, judicial review may enhance democratic governance. If, however, judicial authority is exercised arbitrarily or in pursuit of sectional interests, it becomes difficult to justify its democratic legitimacy.

The compatibility of judicial review with democracy therefore depends not solely on institutional design but also on the ethical principles that guide judicial conduct. It is to this question that the discussion now turns. The next section evaluates judicial review through the lens of Kant's categorical imperative and examines whether judicial institutions can satisfy the moral requirements necessary for democratic legitimacy.

4. Evaluating Judicial Review Through Kant's Categorical Imperative

The debate concerning the compatibility of judicial review with democracy becomes clearer when examined through the normative framework provided by Immanuel Kant's categorical imperative. While discussions of judicial review often focus on institutional design, constitutional arrangements, and legal procedures, Kant's philosophy directs attention to a more fundamental question: whether the exercise of judicial authority conforms to universal moral principles. From a Kantian perspective, the legitimacy of any institution ultimately depends upon its consistency with reason, justice, freedom, and moral duty.

The categorical imperative provides a powerful criterion for evaluating public institutions because it requires actions to be assessed according to their universalizability. A principle is morally acceptable only if it can be willed as a universal law applicable to all rational beings (Kant, 1785/1998). Consequently, institutions that exercise public authority must operate according to standards capable of universal application. Judicial institutions are not exempt from this requirement. Courts derive their legitimacy not merely from constitutional authorization but also from their conformity to universal principles of justice.

This requirement has profound implications for the administration of justice. Judicial decisions must be guided by principles that apply equally to all persons regardless of status, wealth, ethnicity, religion, political affiliation, or social position. A judicial system that applies one standard to powerful individuals and another to ordinary citizens violates the Kantian principle of universality. Such a system ceases to function as an instrument of justice and instead becomes an instrument of privilege and domination.

The significance of this argument is particularly evident in many contemporary democracies where allegations of selective justice frequently emerge. When citizens perceive that judicial outcomes are influenced by political considerations, personal connections, or economic interests, confidence in the judiciary diminishes. Such perceptions undermine not only the legitimacy of judicial institutions but also the broader democratic order. From a Kantian standpoint, the problem is fundamentally moral because unequal application of the law cannot be universalized without contradiction.

Furthermore, Kant's conception of justice emphasizes the coexistence of freedom under universal laws (Kant, 1797/1991). The judiciary therefore bears a responsibility to ensure that the freedoms of individuals are protected in a manner consistent with the equal freedom of others. Judicial review acquires legitimacy when it functions as a mechanism for preserving this balance. Courts that protect constitutional rights, restrain arbitrary governmental actions, and uphold the rule of law contribute to the realization of Kantian justice because they safeguard the conditions necessary for lawful freedom.

However, judicial review loses its moral justification when judicial authority is exercised arbitrarily or for personal gain. The mere existence of constitutional powers does not guarantee moral legitimacy. Judges, like all rational agents, remain subject to ethical obligations. Their actions must be guided by principles capable of universal application rather than by personal preferences or external pressures. Judicial independence therefore carries corresponding responsibilities. Freedom from political interference must not become freedom from accountability.

The second formulation of the categorical imperative provides an even stronger basis for evaluating judicial institutions. Kant's injunction to treat humanity always as an end and never merely as a means establishes a powerful ethical standard for public office (Kant, 1785/1998). Citizens who appear before courts are not instruments through which political interests, personal ambitions, or institutional reputations should be advanced. They are autonomous persons whose dignity demands respect and protection.

The judiciary's responsibility to respect human dignity extends beyond courtroom procedures. It encompasses the broader obligation to ensure fairness, impartiality, and equal treatment before the law. Judicial decisions that are influenced by corruption, favoritism, ethnic loyalties, or political patronage reduce citizens to means rather than ends. Such practices violate the moral foundations upon which both justice and democracy depend.

The relevance of this principle becomes particularly apparent when considering judicial appointments and promotions. In many developing democracies, concerns have been raised regarding the influence of political patronage, ethnic considerations, and personal connections in judicial recruitment. From a Kantian perspective, appointments based on such considerations undermine the moral legitimacy of judicial institutions because they subordinate universal principles of merit and justice to particularistic interests.

A judiciary committed to Kantian principles would prioritize competence, integrity, independence, and commitment to justice. Judicial office would be regarded not as a reward for political loyalty but as a public trust requiring exceptional moral responsibility. Such an approach would strengthen public confidence in judicial institutions and reinforce the democratic values that courts are expected to protect.

The notion of duty, which occupies a central position in Kant's moral philosophy, also has important implications for judicial conduct. Kant maintains that morally worthy actions are those performed from duty rather than inclination or self-interest (Kant, 1785/1998). This distinction is particularly relevant to the judiciary because judges routinely confront situations where legal obligations may conflict with personal preferences or external pressures.

Judicial decisions acquire moral significance when they are grounded in commitment to constitutional principles and legal reasoning rather than political expediency. A judge who decides a case according to law despite personal disagreement with the outcome exemplifies Kantian duty. Conversely, a judge who allows personal interests or external influences to determine judicial outcomes departs from the moral requirements of office.

The challenge confronting many judicial systems is therefore not simply one of institutional design but also one of ethical leadership. The effectiveness of judicial review depends largely upon the moral character of those entrusted with judicial authority. Laws, constitutions, and procedural safeguards remain important, but they cannot substitute for integrity, impartiality, and commitment to justice. Democratic institutions flourish only when those who administer them possess the moral dispositions necessary to sustain them.

This insight resonates with Kant's broader emphasis on good will. According to Kant, good will is the only thing that can be regarded as unconditionally good because its value does not depend upon consequences but upon its commitment to moral duty (Kant, 1785/1998). The judiciary's capacity to promote justice ultimately depends upon the presence of good will among judicial actors. Judges who are motivated by duty, integrity, and commitment to the common good contribute significantly to the preservation of democratic governance.

Beyond individual morality, Kant's philosophy also supports institutional accountability. Accountability should not be understood as a threat to judicial independence but rather as a condition for legitimate authority. Public institutions exercise power on behalf of citizens and must therefore remain answerable for the manner in which that power is exercised.

This argument finds support in O'Neill's (2002) discussion of accountability and public trust. O'Neill argues that institutions sustain legitimacy only when they demonstrate trustworthiness through transparency and responsibility. Accountability mechanisms are therefore necessary not because public officials are presumed guilty but because democratic legitimacy depends upon public confidence. Judicial institutions are no exception to this requirement.

One important mechanism for promoting accountability is the publication of judicial decisions. Publicly accessible judgments enable citizens, scholars, legal practitioners, and other judges to scrutinize judicial reasoning. Such scrutiny encourages consistency, intellectual rigor, and transparency. More importantly, it ensures that judicial authority is exercised through reasoned justification rather than arbitrary discretion.

Similarly, adherence to precedent contributes to accountability by promoting consistency and predictability in legal decision-making. The doctrine of *stare decisis* requires judges to provide compelling reasons for departing from established legal principles. This requirement reduces opportunities for arbitrariness and strengthens public confidence in judicial processes. From a Kantian perspective, consistency in legal reasoning reflects the principle of universalizability because similar cases are treated according to similar standards.

The relationship between judicial review and democracy therefore need not be conceived as inherently antagonistic. Judicial review becomes compatible with democracy when judicial institutions embody the moral principles that underpin democratic governance itself. These principles include equality before the law, respect for human dignity, accountability, rational justification, and commitment to the common good.

Consequently, the real challenge confronting contemporary democracies is not the existence of judicial review but the failure to ensure that judicial institutions consistently operate according to these principles. Where judges act from duty, uphold universal standards of justice, and remain accountable to constitutional norms, judicial review serves as a valuable instrument for protecting democracy. Where these conditions are absent, judicial review risks becoming a source of democratic alienation and public distrust.

In the African context, particularly in Nigeria, strengthening judicial accountability, promoting ethical leadership, ensuring merit-based appointments, and fostering transparency in judicial processes would significantly enhance the democratic legitimacy of judicial review. Such reforms would not only improve the administration of justice but also reinforce the moral foundations of democracy itself.

The foregoing analysis demonstrates that Kant's categorical imperative provides a valuable framework for evaluating judicial review. By emphasizing universality, duty, dignity, and accountability, Kant's philosophy offers a standard against which judicial institutions can be assessed. It also provides a basis for reconciling judicial review with democratic governance by showing that both institutions ultimately derive their legitimacy from the same moral principles.

5. Conclusion

The question of whether judicial review is compatible with democracy has remained one of the most enduring debates in political and legal philosophy. At the centre of this debate lies the tension between two important democratic ideals: popular sovereignty and constitutionalism. On the one hand, democracy presupposes that political authority derives from the people and that public decisions should reflect the collective will expressed through representative institutions. On the other hand, constitutionalism requires the existence of legal mechanisms capable of restraining governmental power and protecting fundamental

rights. Judicial review emerges at the intersection of these competing imperatives, functioning both as a protector of constitutional order and as a potential limitation on majoritarian decision-making.

This study has examined the relationship between democracy and judicial review through the philosophical framework of Immanuel Kant's categorical imperative. The analysis demonstrates that Kant's conception of justice provides a robust moral foundation for democratic governance. For Kant, justice consists in the conditions under which the freedom of each individual can coexist with the freedom of all others under universal laws (Kant, 1797/1991). Similarly, the categorical imperative requires individuals and institutions to act according to principles that can be universally applied and rationally justified (Kant, 1785/1998). These principles establish important standards for evaluating democratic institutions and the exercise of public authority.

The study has argued that democracy derives its moral legitimacy from values such as justice, equality, freedom, participation, accountability, and respect for human dignity. These values correspond closely with the ethical requirements embedded in Kant's moral philosophy. Democratic governance therefore cannot be reduced merely to electoral procedures or majority rule. Rather, it depends upon the existence of institutions capable of promoting the common good while respecting the equal worth and autonomy of all citizens.

Within this framework, judicial review cannot be evaluated solely in terms of institutional structure or constitutional authority. Its legitimacy depends fundamentally upon the manner in which judicial power is exercised. The criticisms advanced by Waldron (1999) and Bellamy (2007) highlight genuine concerns regarding democratic participation, political equality, and the concentration of authority in the hands of unelected judges. These concerns underscore the need for caution in assigning courts extensive powers over matters that affect the political community as a whole.

Nevertheless, the analysis suggests that judicial review is not inherently incompatible with democracy. Rather, its democratic legitimacy depends upon its fidelity to the moral principles that underlie democratic governance itself. Judicial review becomes democratically defensible when it protects constitutional freedoms, safeguards the rule of law, promotes equal justice, and remains accountable to the public values embedded in constitutional democracy. In such circumstances, judicial review serves not as an obstacle to democracy but as one of its institutional safeguards.

The paper further contends that many of the challenges confronting judicial institutions in Africa, particularly in Nigeria, arise not from the existence of judicial review itself but from deficiencies in accountability, ethical leadership, transparency, and institutional integrity. Allegations of corruption, political interference, selective justice, delays in adjudication, and controversial judicial appointments have weakened public confidence in the judiciary and raised legitimate questions regarding its democratic legitimacy. These challenges reveal a deeper moral crisis within public institutions—a crisis that cannot be resolved through legal reforms alone.

Kant's categorical imperative offers a valuable framework for addressing this challenge. By insisting on universality, duty, rationality, and respect for persons, Kant's philosophy provides ethical standards capable of guiding both institutional reform and individual conduct. Judicial institutions that operate according to these principles are more likely to command public trust, promote justice, and contribute to democratic stability.

Accordingly, the study advocates a strengthening of judicial accountability mechanisms without compromising judicial independence. Transparent judicial appointments, merit-based promotions, public accessibility of judicial decisions, strict adherence to ethical standards, and effective disciplinary procedures would significantly enhance public confidence in judicial institutions. Such reforms would ensure that judicial authority remains accountable while preserving the independence necessary for the impartial administration of justice.

Ultimately, democracy and judicial review should not be viewed as irreconcilable adversaries. Both derive their legitimacy from a shared commitment to justice, freedom, equality, and the common good. The categorical imperative provides the moral bridge that connects these values. Where judicial institutions act in accordance with universal principles of justice and remain accountable to the democratic community they serve, judicial review becomes an instrument for strengthening rather than weakening democracy. The future of constitutional democracy in Africa therefore depends not merely on the existence of judicial review but on the extent to which judicial institutions embody the ethical ideals upon which democracy itself is founded.

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