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Trump v. CASA, Inc.
606 U.S. ___, 2025 WL 1773631 (U.S. June 27, 2025)

Justice BARRETT delivered the opinion of the Court.

The United States has filed three emergency applications challenging the scope of a federal court's authority to enjoin Government officials from enforcing an executive order. Traditionally, courts issued injunctions prohibiting executive officials from enforcing a challenged law or policy only against the plaintiffs in the lawsuit. The injunctions before us today reflect a more recent development: district courts asserting the power to prohibit enforcement of a law or policy against *anyone*. These injunctions—known as "universal injunctions"—likely exceed the equitable authority that Congress has granted to federal courts.[11] We therefore grant the Government's applications to partially stay the injunctions entered below.

I

The applications before us concern three overlapping, universal preliminary

[11] Such injunctions are sometimes called "nationwide injunctions," reflecting their use by a single district court to bar the enforcement of a law anywhere in the Nation. But the term "universal" better captures how these injunctions work. Even a traditional, parties-only injunction can apply beyond the jurisdiction of the issuing court. Steele v. Bulova Watch Co., 344 U.S. 280, 289 (1952) (. . . a district court "may command persons properly before it to cease or perform acts outside its territorial jurisdiction"). The difference between a traditional injunction and a universal injunction is not so much *where* it applies, but *whom* it protects: A universal injunction prohibits the Government from enforcing the law against *anyone*, anywhere.

injunctions entered by three different District Courts. See 763 F. Supp. 3d 723 (D. Md. 2025), appeal pending, No. 25–1153 (4th Cir.); 765 F. Supp. 3d 1142 (W.D. Wash. 2025), appeal pending, No. 25–807 (9th Cir.); Doe v. Trump, 766 F. Supp. 3d 266 (D. Mass. 2025), appeal pending, No. 25–1170 (1st Cir.). The plaintiffs—individuals, organizations, and States—sought to enjoin the implementation and enforcement of President Trump's Executive Order No. 14160. See Protecting the Meaning and Value of American Citizenship, 90 Fed. Reg. 8449 (2025). The Executive Order identifies circumstances in which a person born in the United States is not "subject to the jurisdiction thereof" and is thus not recognized as an American citizen. Specifically, it sets forth the "policy of the United States" to no longer issue or accept documentation of citizenship in two scenarios: "(1) when [a] person's mother was unlawfully present in the United States . . . or (2) when [a] person's mother's presence in the United States was lawful but temporary," [if, in either case] "the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth." *Id.* . . .

The plaintiffs filed suit, alleging that the Executive Order violates the Fourteenth Amendment's Citizenship Clause, §1, as well as §201 of the Nationality Act of 1940, 8 U.S.C. §1401. In each case, the District Court concluded that the Executive Order is likely unlawful and entered a universal preliminary injunction barring various executive officials from applying the policy to *anyone* in the country. And in each case, the Court of Appeals denied the Government's request to stay the sweeping relief. See 2025 WL 654902 (4th Cir. Feb. 28, 2025); 2025 WL 553485 (9th Cir. Feb. 19, 2025); 131 F. 4th 27 (1st Cir. 2025).

The Government has now filed three nearly identical applications seeking to partially stay the universal preliminary injunctions and limit them to the parties. The applications do not raise—and thus we do not address—the question whether the Executive Order violates the Citizenship Clause or Nationality Act.

[Preliminary injunctions are injunctions issued before final judgment, based on a preliminary hearing and tentative findings. A stay is also a tentative ruling; it would defer enforcement of these preliminary injunctions pending appeal. So the opinion begins by saying that the injunctions "likely" exceed the trial courts' authority. But that appears to be a formality; the rest of the opinion is written in definitive terms. This ruling is quite unlikely to change after further briefing. Stays and preliminary injunctions are considered in section 5.B.]

III

A

The Government is likely to succeed on the merits of its argument regarding the scope of relief. A universal injunction can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power.[24]

The Judiciary Act of 1789 endowed federal courts with jurisdiction over "all suits . . . in equity," §11, 1 Stat. 78, and still today, this statute "is what authorizes the federal courts to issue equitable remedies," Samuel L. Bray & Emily Sherwin, *Remedies* 442 (4th ed. 2024). Though flexible, this equitable authority is not freewheeling. . . . [T]he statutory grant encompasses only those sorts of equitable remedies "traditionally accorded by courts of equity" at our country's inception. Grupo Mexicano de Desarrollo, S.A. v. Alliance Bond Fund, Inc., 527 U.S. 308, 319 (1999) [briefly summarized in the main volume at

[24] Our decision rests solely on the statutory authority that federal courts possess under the Judiciary Act of 1789. We express no view on the Government's argument that Article III forecloses universal relief.

858]. We must therefore ask whether universal injunctions are sufficiently "analogous" to the relief issued "by the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act." *Id.* at 318-319.

The answer is no: Neither the universal injunction nor any analogous form of relief was available in the High Court of Chancery in England at the time of the founding. . . .

[S]uits in equity were brought by and against individual parties. Indeed, the "general rule in Equity [was] that all persons materially interested [in the suit] [were] to be made parties to it." Joseph Story, *Commentaries on Equity Pleadings* §72 at 74 (2d ed. 1840). Injunctions were no exception; there were "sometimes suits to restrain the actions of *particular* officers against *particular* plaintiffs." Samuel L. Bray, *Multiple Chancellors: Reforming the National Injunction*, 131 Harv. L. Rev. 417, 425 (2017) (emphasis added). . . . The Chancellor's remedies were also typically party specific. . . . Suffice it to say, then, under longstanding equity practice in England, there was no remedy "remotely like a national injunction." *Id.* at 425.

Nor did founding-era courts of equity in the United States chart a different course. If anything, the approach traditionally taken by federal courts cuts *against* the existence of such a sweeping remedy. Consider Scott v. Donald, 165 U.S. 107 (1897), where the plaintiff successfully challenged the constitutionality of a law on which state officials had relied to confiscate alcohol that the plaintiff kept for personal use. Although the plaintiff sought an injunction barring enforcement of the law against both himself and anyone else "whose rights [were] infringed and threatened" by it, this Court permitted only a narrower decree between "the parties named as plaintiff and defendants in the bill." *Id.* at 115-117.

In the ensuing decades, we consistently rebuffed requests for relief that extended beyond the parties. See, *e.g.*, Perkins v. Lukens Steel Co., 310 U.S. 113, 123 (1940) ("The benefits of [the court's] injunction" improperly extended "to bidders throughout the Nation who were not parties to any proceeding, who were not before the court[,] and who had sought no relief"); cf. Frothingham v. Mellon, 262 U.S. 447, 487-489 (1923) (concluding that the Court lacked authority to issue "preventive relief " that would apply to people who "suffe[r] in some indefinite way in common with people generally"). As Justice Nelson put it while riding circuit, "[t]here is scarcely a suit at law, or in equity, . . . in which a general statute is interpreted, that does not involve a question in which other parties are interested." Cutting v. Gilbert, 6 F. Cas. 1079, 1080 (C.C.S.D.N.Y. 1865) (No. 3519). But to allow all persons subject to the statute to be treated as parties to a lawsuit "would confound the established order of judicial proceedings." *Id.*

Our early refusals to grant relief to nonparties are consistent with the party-specific principles that permeate our understanding of equity. "[N]either declaratory nor injunctive relief," we have said, "can directly interfere with enforcement of contested statutes or ordinances except with respect to the particular federal plaintiffs." Doran v. Salem Inn, Inc., 422 U.S. 922, 931 (1975) [reprinted in the main volume at 587].

In fact, universal injunctions were not a feature of federal-court litigation until sometime in the 20th century. The D. C. Circuit issued what some regard as the first universal injunction in 1963. See Wirtz v. Baldor Electric Co., 337 F.2d 518, 535 (D.C. Cir. 1963) (enjoining the Secretary of Labor "with respect to the entire [electric motors and generators] industry," not just the named plaintiffs to the lawsuit). Yet such injunctions remained rare until the turn of the 21st century, when their use gradually accelerated. . . .

The bottom line? The universal injunction was conspicuously nonexistent for most of our Nation's history. Its absence from 18th- and 19th-century equity practice settles the question of judicial authority. That the absence continued into the 20th century renders any claim of historical pedigree still more implausible. . . .

Faced with this timeline, the principal dissent accuses us of "misunderstand[ing] the

nature of equity" as being "fr[ozen] in amber . . . at the time of the Judiciary Act." *Post* at *37 (Sotomayor J., dissenting). Not so. We said it before, and say it again: "[E]quity is flexible." *Grupo Mexicano*, 527 U.S. at 322. At the same time, its "flexibility is confined within the broad boundaries of traditional equitable relief." *Id.* A modern device need not have an exact historical match, but under *Grupo Mexicano*, it must have a founding-era antecedent. And neither the universal injunction nor a sufficiently comparable predecessor was available from a court of equity at the time of our country's inception. Because the universal injunction lacks a historical pedigree, it falls outside the bounds of a federal court's equitable authority under the Judiciary Act.[310]

B . . .

1

In an effort to satisfy *Grupo Mexicano*'s historical test, respondents claim that universal injunctive relief *does* have a founding-era forebear: the decree obtained on a "bill of peace," which was a form of group litigation permitted in English courts. This bill allowed the Chancellor to consolidate multiple suits that involved a "common claim the plaintiff could have against multiple defendants" or "some kind of common claim that multiple plaintiffs could have against a single defendant." Bray, *Multiple Chancellors*, 131 Harv. L. Rev. at 426. . . .

The analogy does not work. True, "bills of peace allowed [courts of equity] to adjudicate the rights of members of dispersed groups without formally joining them to a lawsuit through the usual procedures." Arizona v. Biden, 40 F.4th 375, 397 (6th Cir. 2022) (Sutton, C. J., concurring). Even so, their use was confined to limited circumstances. Unlike universal injunctions, . . . a bill of peace involved a "group [that] was small and cohesive," and the suit did not "resolve a question of legal interpretation for the entire realm." Bray, *Multiple Chancellors* at 426. And unlike universal injunctions, which bind only the parties to the suit, decrees obtained on a bill of peace "would bind all members of the group, whether they were present in the action or not." 7A Charles Alan Wright, *Federal Practice and Procedure* §1751 at 10.

The bill of peace lives in modern form, but not as the universal injunction. It evolved into the modern class action, which is governed in federal court by Rule 23 of the Federal Rules of Civil Procedure. . . . Rule 23 . . . would still be recognizable to an English Chancellor. Rule 23 requires numerosity (such that joinder is impracticable), common questions of law or fact, typicality, and representative parties who adequately protect the interests of the class. The requirements for a bill of peace were virtually identical. None of these requirements is a prerequisite for a universal injunction. . . .

[U]niversal injunctions circumvent Rule 23's procedural protections and allow "courts to create *de facto* class actions at will." Smith v. Bayer Corp., 564 U.S. 299, 315 (2011). Why bother with a Rule 23 class action when the quick fix of a universal injunction is on the table? . . .

2

Respondents contend that universal injunctions—or at least *these* universal injunctions—are consistent with the principle that a court of equity may fashion a remedy that awards complete relief. We agree that the complete-relief principle has deep roots in

[310] Nothing we say today resolves the distinct question whether the Administrative Procedure Act authorizes federal courts to vacate federal agency action.

equity. But to the extent respondents argue that it justifies the award of relief to nonparties, they are mistaken.[411]

"Complete relief " is not synonymous with "universal relief." It is a narrower concept: The equitable tradition has long embraced the rule that courts generally "may administer complete relief *between the parties*." Kinney-Coastal Oil Co. v. Kieffer, 277 U.S. 488, 507 (1928) (emphasis added). While party-specific injunctions sometimes "advantag[e] nonparties," Trump v. Hawaii, 585 U.S. 667, 717 (Thomas, J., concurring), they do so only incidentally.

[The Court offered the example of one neighbor successfully suing another to enjoin a nuisance]. That order will necessarily benefit the defendant's surrounding neighbors too; . . . But while the court's injunction might have the *practical effect* of benefiting nonparties, "that benefit [is] merely incidental." *Trump*, 585 U.S. at 717 (Thomas, J., concurring). As a matter of law, the injunction's protection extends only to the suing plaintiff—as evidenced by the fact that only the plaintiff can enforce the judgment against the defendant responsible for the nuisance. If the nuisance persists, and another neighbor wants to shut it down, she must file her own suit.[513] . . .

[T]he question is not whether an injunction offers complete relief to *everyone* potentially affected by an allegedly unlawful act; it is whether an injunction will offer complete relief *to the plaintiffs before the court*. Here, prohibiting enforcement of the Executive Order against the child of an individual pregnant plaintiff will give that plaintiff complete relief: Her child will not be denied citizenship. Extending the injunction to cover all other similarly situated individuals would not render *her* relief any more complete.

The complete-relief inquiry is more complicated for the state respondents, because the relevant injunction does not purport to directly benefit nonparties. . . .

As the States see it, their harms—financial injuries and the administrative burdens flowing from citizen-dependent benefits programs—cannot be remedied without a blanket ban on the enforcement of the Executive Order. Children often move across state lines or are born outside their parents' State of residence. Given the cross-border flow, the States say, a "patchwork injunction" would prove unworkable, because it would require them to track and verify the immigration status of the parents of every child, along with the birth State of every child for whom they provide certain federally funded benefits.

The Government . . . retorts that even if the injunction is designed to benefit only the States, it is "more burdensome than necessary to redress" their asserted harms. Califano v. Yamasaki, 442 U.S. 682, 702 (1979). After all, to say that a court *can* award complete relief is not to say that it *should* do so. Complete relief is not a guarantee—it is the maximum a court can provide. . . .

Leaning on these principles, the Government contends that narrower relief is appropriate. For instance, the District Court could forbid the Government to apply the Executive Order within the respondent States, including to children born elsewhere but living in those States. Or, the Government says, the District Court could direct the Government to "treat covered children as eligible for purposes of federally funded welfare

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[411] Justice Jackson . . . thinks the "premise" that universal injunctions provide relief to nonparties is "suspect" because, in her view, "[n]onparties may *benefit* from an injunction, but only the plaintiff gets *relief*." *Post*, at *47, n.2 (dissenting). The availability of contempt proceedings suggests otherwise. . . . "When an order grants relief for a nonparty," as is the case with universal injunctions, "the procedure for enforcing the order is the same as for a party." Fed. Rule Civ. Proc. 71. So a nonparty covered by a universal injunction is likely to reap both the practical benefit and the formal relief of the injunction.

[513] The new plaintiff might be able to assert nonmutual offensive issue preclusion. But nonmutual offensive issue preclusion is unavailable against the United States. That universal injunctions end-run this rule is one of the Government's objections to them.

benefits." . . .

We decline to take up these arguments in the first instance. The lower courts should determine whether a narrower injunction is appropriate; we therefore leave it to them to consider these and any related arguments.

3

[The Court briefly summarized the policy arguments for and against universal injunctions, largely tracking the arguments summarized in the main volume.] [T]he policy pros and cons are beside the point. Under our well-established precedent, the equitable relief available in the federal courts is that "traditionally accorded by courts of equity" at the time of our founding. *Grupo Mexicano*, 527 U.S. at 319. Nothing like a universal injunction was available at the founding, or for that matter, for more than a century thereafter. Thus, under the Judiciary Act, federal courts lack authority to issue them.

C . . .

Justice Jackson appears to believe that the reasoning behind *any* court order demands "universal adherence," at least where the Executive is concerned. *Post*, at *44 (dissenting). . . . Once a single district court deems executive conduct unlawful, it has stated what the law requires. And the Executive must conform to that view, ceasing its enforcement of the law against anyone, anywhere.

We will not dwell on Justice Jackson's argument, which is at odds with more than two centuries' worth of precedent, not to mention the Constitution itself. We observe only this: Justice Jackson decries an imperial Executive while embracing an imperial Judiciary.

No one disputes that the Executive has a duty to follow the law. But the Judiciary does not have unbridled authority to enforce this obligation—in fact, sometimes the law prohibits the Judiciary from doing so. See, *e.g.*, Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803) (concluding that James Madison had violated the law but holding that the Court lacked jurisdiction to issue a writ of mandamus ordering him to follow it). . . .

IV

Finally, the Government must show a likelihood that it will suffer irreparable harm absent a stay. When a federal court enters a universal injunction against the Government, it "improper[ly] intru[des]" on "a coordinate branch of the Government" and prevents the Government from enforcing its policies against nonparties. Immigration & Naturalization Service v. Legalization Assistance Project, 510 U.S. 1301, 1306 (1993) (O'Connor, J., in chambers). That is enough to justify interim relief.

[Justice Sotomayor denied that the government suffered any harm,] because the Executive Order is unconstitutional. Thus, "the Executive Branch has no right to enforce [it] against anyone." *Post*, at *31. . . .

The dissent is wrong to say . . . that a stay applicant cannot demonstrate irreparable harm from a threshold error without also showing that, at the end of the day, it will prevail on the underlying merits. That is not how the *Nken* factors work. See Nken v. Holder, 556 U.S. 418, 434 (2009) [summarized in the main volume at 434]. For instance, when we are asked to stay an execution on the grounds of a serious legal question, we ask whether the capital defendant is likely to prevail on the merits of the issue before us, not whether he is likely to prevail on the merits of the underlying suit. . . . So too here.

The question before us is whether the Government is likely to suffer irreparable

harm from the District Courts' entry of injunctions that likely exceed the authority conferred by the Judiciary Act. The answer to that question is yes. See also Maryland v. King, 567 U.S. 1301, 1303 (2012) (Roberts, C. J., in chambers) ("'[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury'" (alteration in original)). [Maryland v. King is summarized in the main volume at 376.] And the balance of equities does not counsel against awarding the Government interim relief: Partial stays will cause no harm to respondents because they will remain protected by the preliminary injunctions to the extent necessary and appropriate to afford them complete relief.

* * *

. . . [F]ederal courts do not exercise general oversight of the Executive Branch; they resolve cases and controversies consistent with the authority Congress has given them. When a court concludes that the Executive Branch has acted unlawfully, the answer is not for the court to exceed its power, too.

The Government's applications to partially stay the preliminary injunctions are granted, but only to the extent that the injunctions are broader than necessary to provide complete relief to each plaintiff with standing to sue. The lower courts shall move expeditiously to ensure that, with respect to each plaintiff, the injunctions comport with this rule and otherwise comply with principles of equity. . . .

It is so ordered.

* * *

Justice JACKSON, dissenting.

I agree with every word of JUSTICE SOTOMAYOR's dissent. I write separately to emphasize a key conceptual point: The Court's decision to permit the Executive to violate the Constitution with respect to anyone who has not yet sued is an existential threat to the rule of law.

It is important to recognize that the Executive's bid to vanquish so-called "universal injunctions" is, at bottom, a request for this Court's permission to engage in unlawful behavior. When the Government says "do not allow the lower courts to enjoin executive action universally as a remedy for unconstitutional conduct," what it is actually saying is that the Executive wants to continue doing something that a court has determined violates the Constitution— please allow this. That is some solicitation. With its ruling today, the majority largely grants the Government's wish. But, in my view, if this country is going to persist as a Na- tion of laws and not men, the Judiciary has no choice but to deny it.

Stated simply, what it means to have a system of government that is bounded by law is that everyone is constrained by the law, no exceptions. And for that to actually happen, courts must have the power to order everyone (including the Executive) to follow the law—full stop. To conclude other- wise is to endorse the creation of a zone of lawlessness within which the Executive has the prerogative to take or leave the law as it wishes, and where individuals who would otherwise be entitled to the law's protection become subject to the Executive's whims instead.

The majority cannot deny that our Constitution was de- signed to split the powers of a monarch between the governing branches to protect the People. Nor is it debatable that the role of the Judiciary in our constitutional scheme is to ensure fidelity to law. But these core values are strangely absent from today's decision. Focusing on inapt comparisons to impotent English tribunals, the majority ignores the Judiciary's foundational duty to uphold

the Constitution and laws of the United States. The majority's ruling thus not only diverges from first principles, it is also profoundly dangerous, since it gives the Executive the go-ahead to sometimes wield the kind of unchecked, arbitrary power the Founders crafted our Constitution to eradicate. The very institution our founding charter charges with the duty to ensure universal adherence to the law now requires judges to shrug and turn their backs to intermittent lawlessness. With deep disillusionment, I dissent.

I

To hear the majority tell it, this suit raises a mind-numbingly technical query: Are universal injunctions "sufficiently 'analogous' to the relief issued 'by the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act' " to fall within the equitable authority Congress granted federal courts in the Judiciary Act of 1789? *Ante*, at 6. But that legalese is a smokescreen. It obscures a far more basic question of enormous legal and practical significance: May a federal court in the United States of America order the Executive to follow the law?

A

To ask this question is to answer it. In a constitutional Republic such as ours, a federal court has the power to order the Executive to follow the law—and it must. It is axiomatic that the Constitution of the United States and the statutes that the People's representatives have enacted govern in our system of government. Thus, everyone, from the President on down, is bound by law. By duty and na- ture, federal courts say what the law is (if there is a genuine dispute), and require those who are subject to the law to conform their behavior to what the law requires. This is the essence of the rule of law.

Do not take my word for it. Venerated figures in our Nation's history have repeatedly emphasized that "[t]he essence of our free Government is 'leave to live by no man's leave, underneath the law'—to be governed by those imper- sonal forces which we call law." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U. S. 579, 654 (1952) (R. Jackson, J., concurring). "Our Government is fashioned to fulfill this concept so far as humanly possible." *Id*., at 654–655. Put differently, the United States of America has " ' "a government of laws and not of men." ' " v. *Aaron*, 358 U. S. 1, 23 (1958) (Frankfurter, J., concurring) (quoting *United States v. Mine Workers*, 330 U. S. 258, 307 (1947) (Frankfurter, J., concurring in judgment)); see also, *e.g*., Mass. Const., pt. 1, Art. XXX (1780), in 3 Federal and State Constitutions 1893 (F. Thorpe ed. 1909) (J. Adams); *Marbury* v. *Madison*, 1 Cranch 137, 163 (1803) (Marshall, C. J., for the Court); *United States* v. *Dickson*, 15 Pet. 141, 162 (1841) (Story, J., for the Court).

That familiar adage is more than just mere "'rhetorical flourish.'" *Cooper*, 358 U. S., at 23. It is "'the rejection in positive terms of rule by fiat, whether by the fiat of governmental or private power.'" *Ibid.* Indeed, "constitutionalism has one essential quality: it is a legal limitation on government; it is the antithesis of arbitrary rule; its opposite is despotic government, the government of will instead of law." C. McIlwain, *Constitutionalism*: Ancient and Modern 21–22 (rev. ed. 1947); see also *id*., at 21 ("All constitutional government is by definition limited government").

Those who birthed our Nation limited the power of government to preserve freedom. As they knew all too well, "constant experience shows us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go." Montesquieu, The Spirit of Laws, in 38 Great Books of the Western World 69 (T. Nugent transl., R. Hutchins ed. 1952). But the Founders reasoned that the vice of human ambition could be channeled to prevent the country from devolving into despotism—ambition could be "made to counteract ambition." The Federalist No. 51, p. 322 (C. Rossiter ed. 1961) (J. Madison). If there were, say, a Constitution that divided power across institutions "in such a manner as

that each may be a check on the other," then it could be possible to establish Government by and for the People and thus stave off autocracy. *Ibid*.; see also *Myers* v. *United States*, 272 U. S. 52, 293 (1926) (Brandeis, J., dissenting) ("The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power"). Through such separated institutions, power checks power. See Montesquieu, The Spirit of Laws, at 69. Our system of institutional checks thus exists for a reason: so that "the private interest of every individual may be a sentinel over the public rights." The Federalist No. 51, at 322.

B

The distribution of power between the Judiciary and the Executive is of particular importance to the operation of a society governed by law. Made up of " 'free, impartial, and independent'" judges and justices, the Judiciary checks the political branches of Government by explaining what the law is and "securing obedience" with it. *Mine Workers*, 330
U. S., at 308, 312 (opinion of Frankfurter, J.); see *Marbury*, 1 Cranch, at 177. The federal courts were thus established "not only to decide upon the controverted rights of the citizens as against each other, but also upon rights in controversy between them and the government." *United States* v. *Lee*, 106 U. S. 196, 220 (1882).

Quite unlike a rule-of-kings governing system, in a rule- of-law regime, nearly "[e]very act of government may be challenged by an appeal to law." *Cooper*, 358 U. S., at 23 (opinion of Frankfurter, J.). In this country, the Executive does not stand above or outside of the law. Consequently, when courts are called upon to adjudicate the lawfulness of the actions of the other branches of Government, the Judiciary plays "an essential part of the democratic process." *Mine Workers*, 330 U. S., at 312. Were it otherwise—were courts unable or unwilling to command the Government to follow the law—they would "sanctio[n] a tyranny" that has no place in a country committed to "well-regulated liberty and the protection of personal rights." *Lee*, 106 U. S., at
221. It is law—and " 'Law alone' "—that " 'saves a society from being rent by internecine strife or ruled by mere brute power however disguised.' " *Cooper*, 358 U. S., at 23 (quoting *Mine Workers*, 330 U. S., at 308).

The power to compel the Executive to follow the law is particularly vital where the relevant law is the Constitution. When the Executive transgresses an Act of Congress, there are mechanisms through which Congress can assert its check against the Executive unilaterally—such as, for example, asserting the power of the purse. See K. Stith, Congress' Power of the Purse, 97 Yale L. J. 1343, 1360 (1988) (describing Congress's ability to "regulat[e] executive branch activities by limitations on appropriations"). But when the Executive violates the Constitution, the only recourse is the courts. Eliminate that check, and our government ceases to be one of "limited powers." *Gregory* v. *Ashcroft*, 501 U. S. 452, 457 (1991). After all, a limit that "do[es] not confine the perso[n] on whom [it is] imposed" is no limit at all. *Marbury*, 1 Cranch, at 176.

* * *

Put differently, the majority views the Judiciary's power through an aperture that is much too small, leading it to think that the *only* function of our courts is to provide "complete relief " to private parties. Sure, federal courts do that, and they do it well. But they *also* diligently maintain the rule of law itself. When it comes to upholding the law, federal courts ensure that all comers—*i.e*., everyone to whom the law applies and over whom the court has personal jurisdiction (including and perhaps especially the Executive)—know what the law is and, most important, follow it.

NOTES ON UNIVERSAL INJUNCTIONS AND BIRTHRIGHT CITIZENSHIP

1. The concurrences. The opinion of the Court was 26 pages; there were 21 pages of concurring opinions and 66 pages of dissents. Justice Thomas, joined by Justice Gorsuch, sought to further limit the option of providing complete relief to the parties. Justice Alito, joined by Justice Thomas, emphasized his view that the requirements of Rule 23 must be rigorously complied with.

Justice Kavanaugh said, as he has before, that whether a major new statute or regulation remains in effect pending litigation is itself an important issue, and that nationwide uniformity on that interim issue can be important. But uniformity should not come from universal injunctions. Rather, the Supreme Court should decide such questions on motions seeking stays of injunctions issued by the lower courts, or seeking injunctions pending appeal when the lower courts denied relief. And therefore, the Supreme Court should not defer to lower courts on these issues. It should decide for itself whether the challenged law or regulation should remain in effect, or be temporarily enjoined, pending final resolution of the merits. This suggestion would require significant changes in current legal doctrine on stays and injunctions pending appeal, but perhaps not so much change in actual practice.

2. The dissents. Justice Sotomayor, dissenting for the three liberals, found ample historical analogs to universal injunctions, and universal injunctions long before 1963. She relied heavily on the work of Professor Sohoni; note that the majority relied on Professor Bray. For citations to these articles, see notes 2 and 8 in the main volume.

Justice Sotomayor did not think that universal injunctions should be routine. She thought that in this case, a universal injunction was necessary to provide complete relief to the states.

She did not just think that the Executive Order is unconstitutional; she thought that it was flagrantly and obviously unconstitutional, and that this flagrant unconstitutionality argued in favor of universal relief. She feared that newborn citizens might be deported before their parents could file a lawsuit and before they were included in a class action.

Justice Jackson filed a much more expansive dissent. It is not clear that she meant all that the majority attributed to her, but she might. Her dissent could plausibly be taken to mean that governments (and private parties too) have an obligation to comply with all court decisions that say what the law is, without regard to who the parties are and whether or not the court issues a universal injunction. She argued that the "Court's decision to permit the Executive to violate the Constitution with respect to anyone who has not yet sued is an existential threat to the rule of law." 2025 WL 1773631 at *44.

3. The first response. On July 10, a federal district court provisionally certified a class of all persons born in the United States and purportedly deprived of birthright citizenship by the President's Executive Order. "Barbara" v. Trump, 2025 WL 1902218 (D.N.H. July 10, 2025). And the Court preliminarily enjoined enforcement of the Executive Order against this class. "Barbara" v. Trump, 2025 WL 1901936 (D.N.H. July 10, 2025). The court stayed its own order for seven days to let the government appeal.