



The No Rogue Rulings Act would undermine constitutional protections for all Americans

The proposed “No Rogue Rulings Act” would severely restrict courts’ ability to issue nationwide injunctions — remedies that are a critical check on executive overreach and help to maintain checks and balances and the constitutional separation of powers. **This legislation would undermine these established principles**, creating a geographically random distribution for which constitutional protections would continue to remain in force.

The “No Rogue Rulings Act” represents a shortsighted attempt to limit judicial review in response to specific policy disagreements. Its consequences, however, **would fundamentally alter our constitutional system by weakening courts’ ability to check executive power and protect individual rights** — a function that Supreme Court Justice Robert Jackson [described](#) as “indispensable to liberty.”

Why nationwide remedies matter

The American constitutional system depends on an independent judiciary with meaningful remedial powers. **Nationwide injunctions serve two essential functions:**

First, they uphold our Constitutional structure. The founders established three equal branches of government precisely to prevent any single branch from exceeding its authority. When courts determine that a federal policy violates the Constitution or statutory law, nationwide injunctions ensure this determination applies uniformly across the country — preserving both the rule of law and the separation of powers.

Second, they protect fundamental rights equally. Constitutional rights are not meant to vary by zip code or income bracket. Without nationwide remedies, unlawful policies would continue harming Americans who lack the resources to file individual lawsuits. This reality would disproportionately impact communities of color, low-income families and other vulnerable populations, creating a system in which justice depends on one’s ability to access the courts.



A bipartisan constitutional safeguard

As Bethany Noll's [law review article](#), "Tired of Winning: Judicial Review of Regulatory Policy in the Trump Era," which fully analyzes the record, describes the variances in Trump-era agency win rates in challenges to agency actions compared with previous administrations:

"Trump-era agencies consistently violated statutory limits on agency policymaking and failed to comply with procedural requirements governing agency regulations. Several arguments raised to explain the low win rate, including appeal effects and judicial ideology, are lacking."

This includes basic, bare minimum legal requirements like:

- Failure to provide required notice and comment
- Actions contradicting plain statutory language
- Inadequate justification for policy changes
- Constitutional violations

Far from being **"rogue rulings,"** such decisions simply require administrations to follow **basic established legal processes.**

Data on injunctions do not show a partisan pattern

Nationwide injunctions have a long and established [history](#) in American jurisprudence. Data [shows](#) that courts rule against administrations of both parties when legal standards are not met:

ADMINISTRATION	TOTAL INJUNCTIONS	FROM OPPOSING PARTY JUDGES	PERCENTAGE
Bush	6	3	50%
Obama	12	7	58.3%
Trump	64	59	92.2%
Biden	14	14	100%
TOTAL	96	83	86.5%

We see a consistent pattern: **nationwide injunctions were issued against administrations of both parties by judges across the political spectrum.** While the total number of injunctions varies by administration, the principle remains consistent — **judges appointed by both Republican and Democratic presidents have checked executive overreach when legal standards aren’t met.**

This balanced judicial oversight demonstrates that nationwide injunctions function as a constitutional safeguard rather than a partisan tool, ensuring that all administrations, regardless of party affiliation, remain accountable to the rule of law. **The system also contains robust internal checks:** the existing appellate process effectively reviews and calibrates actions in the lower federal courts.

The founders established three equal branches of government precisely to prevent any single branch from exceeding its authority. As James Madison [wrote](#) in Federalist No. 51, “the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.”

The American Constitutional system depends on an independent judiciary with meaningful powers. **When courts determine that a federal policy violates the Constitution or statutory law, nationwide injunctions fulfill this essential function.**

Practical implications of restricting nationwide injunctions

While reasonable minds can differ on specific applications of judicial remedies, proposals that would fundamentally weaken courts' ability to protect constitutional rights warrant careful, bipartisan consideration. They are essential to preserve our ability to protect all Americans' fundamental rights equally and effectively.

Limiting courts' remedial powers would have significant real-world consequences:

- **Inconsistent Application of Law:** The same federal policy could be enforced differently based on geography or who has filed suit; the Supreme Court can only resolve a small fraction of cases, meaning these differences would persist.
- **Multiple Redundant Lawsuits:** Requiring case-by-case litigation would burden the court system with potentially thousands of identical cases.

The judicial system already contains multiple points of review, including appellate review where higher courts can narrow or stay injunctions, Supreme Court oversight to limit or overturn lower court decisions and the Administrative Procedure Act's explicit authorization for courts to "set aside" unlawful agency actions in their entirety.

Ultimately, nationwide injunction authority serves as a vital constitutional safeguard that preserves the coherence of our legal system. Nationwide injunctions are firmly rooted in both constitutional principles and historical practice. When government policies violate rights across jurisdictions, federal courts must have the authority to provide nationwide relief responsive to the scope and nature of the violation.

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