


ASTRONAUTS FOR AMERICA


CONSTITUTIONAL PRINCIPLE: EQUAL PROTECTION OF THE LAW

“Our Constitution is color-blind, and neither knows nor tolerates classes among citizens”

Justice John Marshall Harlan, dissenting in *Plessy v. Ferguson* (1896)

BACKGROUND

This fifth briefing in our series, “America, We Have a Problem,” looks at Equal Protection of the Law: government must apply the law evenhandedly and may not sort people into classes it treats differently without good reason. The phrase does not appear in the Bill of Rights. It entered the Constitution with the 14th Amendment in 1868: “...nor deny to any person within its jurisdiction the *equal protection of the laws*.” That Amendment binds the states. In *Bolling v. Sharpe* (1954) the Supreme Court held that the same requirement binds the federal government through the 5th Amendment. Note the word: not citizen, but person. Equal protection reaches everyone in our jurisdiction, without regard to race, sex, religion, wealth, citizenship or political contributions.

SELECTED HISTORICAL THREATS

- **1896:** In *Plessy v. Ferguson* the Supreme Court upheld “separate but equal” facilities, legalizing Jim Crow for Black Americans for nearly 60 years, until it was overturned by *Brown v. Board of Education* (1954).
- **1942:** Under Exec. Order 9066, Japanese American Internment (WWII) removed and incarcerated Japanese Americans, including US citizens, without due process. In *Korematsu v. United States* (1944), the Supreme Court upheld the order. Congress and President Reagan acknowledged the wrong in the Civil Liberties Act of 1988, with an apology and reparations; the Supreme Court itself later disavowed the ruling that upheld internment, declaring in *Trump v. Hawaii* (2018) that *Korematsu* “was gravely wrong the day it was decided.”
- **2017:** The State Department banned travel from five predominantly Muslim countries. The [Supreme Court, in a 5-4 decision, ultimately upheld the third version of the ban](#) in *Trump v. Hawaii* (2018), over a dissent citing evidence of anti-Muslim bias. President Biden [rescinded the ban by proclamation](#) on his first day in office.

SELECTED RECENT THREATS

- In *Nuziart v. Minority Business Development Agency* (2024) a federal court struck down the agency’s presumption that only certain racial and ethnic groups are socially disadvantaged, and the government dropped its appeal. Equal protection limits classification by race whoever does it, and whatever the motive.
- The President, by executive order in 2025, tried to end birthright citizenship. Lower courts blocked it, and on June 30, 2026, the Supreme Court struck the order down as unconstitutional in *Trump v. Barbara*.
- In 2025, the executive branch established a ceiling of 17,500 refugee admissions into the United States for 2026, with 17,425 of the slots reserved for Afrikaners (i.e., white South Africans who identify as descendants of Dutch settlers). The stated reason for admitting Afrikaners but virtually nobody else was that Afrikaner farmers face discriminatory seizures of their land and the threat of racially motivated killing. South Africa’s [Expropriation Act of 2024](#), would permit nil compensation in narrow cases, subject to court review, but has yet to be brought into force. So, to date, there have been no land seizures. Nor is there anything like systematic killing of Afrikaner farmers: the most recent data as of the time of the executive orders showed, for a nine-month period, a total of seven farmers of all races murdered in South Africa, a country of 65 million people. Meanwhile the DHS [ended Temporary Protected Status](#) (TPS) for 330,000 Haitians declaring return to their country as safe, while the State Department lists [strife-torn](#) Haiti at “[Do Not Travel](#),” its highest warning. To be sure, constitutional equal protection does not require admitting either group. But our founding values of justice and equality for all persons, and institutional norms of truth and evidence call on government to hold all claims to a consistent, reasonable standard of proof.
- In June 2026, the Department of Justice concluded that the [EEOC’s “disparate impact” guidelines are unconstitutional](#), arguing they pressure employers to use racial quotas in human resource decisions. Critics see this as a major step back for workplace equality enforcement.

Astronauts For America Focus: As NASA astronauts, we embraced the Agency’s core values of Teamwork and Inclusion which meant equal opportunity on high-stakes missions with high-performing crews. We at Astronauts For America are not constitutional scholars. We defer to subject matter experts when analyzing complex sociotechnical failures. We use reliable sources: court decisions, peer-reviewed scholarship, court records, and news reporting rather than commentary or opinion. We publish findings calling on officials and citizens to “course-correct,” to ensure that liberties, justice and protections of the Constitution are applied equally to all persons.

“The minority possess their equal rights, which equal law must protect, and to violate would be oppression.”

Thomas Jefferson, *First Inaugural Address*, March 1801

Appeal to Our Crewmates: We need your help. Use “Contact Us” to suggest how we strengthen our commitment to **Equal Protection Under the Law**.

