

Center for Constitutional Rights

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://ccrjustice.org/home/press-center/ccr-news/bivens-term-why-supreme-court-should-reinvigorate-damages-suits-against>

Public Facing Advocacy Writing

Two of the most important cases that the Supreme Court will hear during its current Term involve the availability of *Bivens* remedies judge made causes of action that allow individuals to seek damages against federal officers who violate their constitutional rights. That may be a mouthful, but, in a nutshell, *Bivens* is the only mechanism today through which individuals whose constitutional rights were violated by the federal government can obtain legal relief once the violation has ceased.

Although cases raising the scope of *Bivens* don't tend to generate the same headlines as those involving hot-button social issues such as abortion, affirmative action, health care, and immigration, the more general principle of which *Bivens* is a critical element that federal courts have an obligation to provide remedies for unconstitutional federal government conduct is a bulwark of our constitutional system. Without such remedies, there would be little reason for federal officers to comply with the Constitution especially those provisions that are least likely to be protected through the political process. And as Justice John Marshall Harlan II wrote in his concurring opinion in *Bivens*, it would be . . . anomalous to conclude that the federal judiciary . . . is powerless to accord a damages remedy to vindicate social policies which, by virtue of their inclusion in the Constitution, are aimed predominantly at restraining the Government as an instrument of the popular will.

[Read the full article here.](#)

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