Justice Department launches lawsuit against Texas gerrymandering for violation of Voting Rights Act

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The US Department of Justice launched a lawsuit alleging violations of the Voting Rights Act of 1965 on Monday against the state of Texas and the Texas Secretary of State. The suit charges that the Republican-controlled redistricting of Texas congressional districts, based on the 2020 US census, discriminated against minority voters.

The DOJ's press release on Monday stated that the redistricting plan "violates Section 2 of the Voting Rights Act because it has the discriminatory purpose of denying or abridging the right to vote on account of race, color or membership in a language minority group in that it deliberately minimizes the voting strength of minority communities."

One such example cited by the DOJ is a bizarre "seahorse" shaped Dallas-area district which preserves seats for Republicans as a result. This is a clear case of gerrymandering. (The term's origins lie in the redrawing of an electoral district in Massachusetts in 1812 to favor candidates of then Governor Elbridge Gerry of the Democratic-Republican party over those of the Federalists, with the resulting district resembling a salamander.)

Districts such as the contested District 23 in West Texas had areas removed to lower the share of Latino voters by 9 percent. Six of the 10 districts in Houston are majority white, while white voters make up barely one-quarter of the total population of the region, and Hispanic voters comprise nearly half.

Texas has grown significantly, particularly among minority populations, which account for 95 percent of that growth. But of the two districts being added as a result, one will have a white majority despite this.

US Attorney General Merrick Garland and Associate Attorney General Vanita Gupta held a press conference Monday on the DOJ lawsuit, with Gupta alleging the state's districts were drawn with "discriminatory intent" in a "rushed process ... with an overall disregard for the massive minority population growth over the last decade," despite increases in minority population, stating "the newly enacted redistricting plans will not allow minority voters an equal opportunity to elect representatives of their choice."

Garland stated, "The complaint we've filed today alleges that Texas has violated section two by creating redistricting plans that deny or abridge the rights of Latino or Black voters to vote on account of their race, color, or membership in a language minority group."

This is the first redistricting cycle since 1960 to be done without pre-clearance, a provision of the Voting Rights Act which required Texas and other Southern states, which have a long history of racial discrimination against minority voters stretching back to the Jim Crow era, to have their voting districts certified by the DOJ before being approved. Predictably, the Texas Republicans, who control both the governorship and the state legislature, seized on this opportunity to enforce a redistricting policy favoring the election of Republican candidates.

The DOJ complaint asks the court to prohibit Texas from conducting elections under the challenged plans, that the court order Texas to come up with and implement new plans complying with Section 2 of the Voting Rights Act, and for the court to establish interim plans pending a lawful state redistricting.

In a news conference Monday, Garland urged the reinstatement of the preclearance protections provisions of the Voting Rights Act which the Supreme Court

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eliminated in a 2013 ruling, stating that the lawsuit would not have had to have taken place had preclearance been still in effect.

As the WSWS wrote following the ruling: “By a 5-4 margin, the court effectively abrogated one of the most important pieces of civil rights legislation in American history. The Voting Rights Act remains on the books, but its enforcement mechanism has been declared unconstitutional and struck down.”

In response to the DOJ’s lawsuit, Texas state Attorney General Ken Paxton, who assisted in laying the pseudo-legal justifications used to whip up the fascistic elements in US president Donald Trump’s fascist January 6 coup, stated, “The Department of Justice’s absurd lawsuit against our state is the Biden Administration’s latest ploy to control Texas voters. I am confident that our legislature’s redistricting decisions will be proven lawful, and this preposterous attempt to sway democracy will fail.”

The lawsuit comes just weeks after DOJ sued Texas for its anti-democratic Senate Bill 1 (SB 1) restricting access to the ballot before and on election day. SB 1 was passed after the Biden administration rejected appeals from Texas House Democrats to weaken the filibuster so as to enable passage of the Democrats’ voting rights bills without Republican support, thereby overriding Texas’ SB 1.

Weeks before its passage, President Biden called attacks on voting rights by Republican lawmakers the greatest threat to American democracy since the Civil War. Afterwards, barely a note was made by Biden on the passage of the anti-democratic law, with Democrats largely ignoring it.

The Democrats made no attempt to mobilize opposition to what the WSWS has rightfully called “one of the greatest assaults on voting rights since the dismantling of Jim Crow in the 1960s,” instead promoting illusions in the courts and Congress.

Since then, the Democrats have dropped their of defense of voting rights, refusing to challenge the Senate filibuster, thereby ensuring any legislation against the blatant infringement on democratic rights by Republicans fails, as it would require the perpetrators themselves to vote for the bill to meet the 60-vote threshold against a filibuster.

Democrats effectively abandoned their “For the People Act” which would expand ballot access and ban partisan gerrymandering, with their more narrow “John Lewis Voting Rights Advancement Act” having little chance of passing, the core of which would restore pre-clearance enforcement.

The DOJ lawsuit appears to be an effort to counter the widespread disillusionment among Democratic voters, particularly minority voters, provoked by the collapse of the effort to pass a voting rights bill through the Senate, with a show of opposition to the attacks on voting rights in Texas.

It is unlikely to be more than a legal fiction, however, since the Supreme Court has drastically undercut the basis of such lawsuits by shifting the burden of proof. Under the Voting Rights Act, every action of states subject to pre-clearance had to pass muster with the federal Department of Justice.

Under the regime in effect since 2013, the DOJ must prove a deliberate racial animus in the actions of state governments, something which is very difficult to do, especially when the high court has declared that discrimination based on political affiliation is legal, even while discrimination based on race is not. It is thus legal for the Republicans to create a handful of districts that are 90 percent Democratic, so that a majority of districts will be 60 percent Republican, guaranteeing a Republican majority, as long as they do not openly admit that this involves racial considerations.

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