Texas Supreme Court allows investigation against parents of transgender children

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16 May 2022

The Texas Supreme Court has lifted the injunction of a lower court, allowing the state government to go ahead with its persecution of the parents of transgender children. The administration of Republican Governor Greg Abbott is seeking to investigate such parents on charges of child abuse for helping them transition.

The policy in question was a result of Texas Attorney General Ken Paxton's Opinion number KP-0401, as well as Governor Abbott's subsequent letter to the Department of Family and Protective Services (DFPS) calling for the investigation of parents of transgender children as child abusers. This is detailed in the Texas Supreme Court ruling authored by two Abbott appointees, which led the DFPS to state to the media that in "accordance with Governor Abbott's directive today to Commissioner Masters, we will follow Texas law as explained in Attorney General opinion KP-0401."

The Texas government's assault on the democratic rights of transgender people and their parents follows similar attacks on democratic rights in Texas and throughout the country by Republican officials.

Abbott recently announced his intent to openly discriminate against undocumented immigrant children by preventing them from attending public schools, an action that harks back to the days of Jim Crow segregation. Texas and a number of other Republican states have already effectively banned abortion, while the Supreme Court is poised to overturn *Roe v Wade* as was shown in a leaked draft opinion. This opens the door not just for the outright banning of abortion but for attacks on other democratic rights won in popular struggles over more than a century. All of these attacks have been aided and abetted by the feckless Democrats, who despite controlling the presidency and both houses of Congress, have folded on each and every issue.

Paxton's opinion concludes that "'sex change' procedures and treatments . . . when performed on children, can legally constitute child abuse under several provisions of chapter 261 of the Texas Family Code." Abbott's letter takes the same opinion, saying "a number of so-called 'sex change' procedures constitute child abuse under existing Texas law."

The Texas government has already attempted to ban sex-change operations, as was explained in the Texas Supreme Court opinion. "During the most recent regular session, the Legislature considered, but did not pass, proposed legislation that would have amended the Family Code to add certain treatments for gender dysphoria to the definition of 'child abuse'" in Texas Senate Bill 1646 in 2021, the opinion notes.

Both the American Civil Liberties Union and Lambda Legal, which represented the plaintiffs, have called the ruling "a win for our clients and the rule of law," since it stated that Abbott and Paxton "do not have the authority to order DFPS to take any action against families."

The claim, that it is a "win" is both ridiculous and incredibly stupid for a number of reasons, including the obvious one that it *allows* the DFPS to initiate investigations of parents of transgender children, even if it does not sustain the effort to *require* them.

Abbott and Paxton, both of whom are experienced lawyers and had a hand in writing numerous pieces of legislation, were without a doubt aware that under Texas law they had no legal standing to direct DFPS. Abbott likely would have no reason to do so anyway, as the Commissioner of the DFPS, Jaime Masters, was a political appointee of Abbott's in 2019.

In a response last year to a request by Abbott for a clarification as to whether reassignment surgery constitutes child abuse under Texas state law, Masters

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wrote that “Genital mutilation of a child through reassignment surgery is child abuse, subject to all rules and procedures pertaining to child abuse. Such mutilation may cause a ‘genuine threat of substantial harm from physical injury to the child’.” The letter was attached to a DFPS press release, viewable here.

The release stated that “Allegations involving genital mutilation of a child through reassignment surgery will be promptly and thoroughly investigated and any appropriate actions will be taken,” requiring “certain professionals” to report if they believed a child had been “abused,” that failure to report is a class A misdemeanor while intentional concealment a felony with a jail term, and that enforcement was effective immediately.

As should be obvious now that Abbott and Paxton’s request was mainly intended to advance their political standing with the Christian fundamentalist right and other anti-trans bigots in a year when both are up for reelection. Both also faced primary challenges, and Paxton has been forced into a May 24 runoff with George P. Bush, the son of former Florida governor Jeb Bush and nephew of former president and Texas governor George W. Bush.

Masters is in clear political solidarity with Abbott. The declaration that the courts finding that Abbott and Paxton “do not have the authority to order DFPS to take action against families” is worthless and changes nothing.

The bankruptcy of this claim is made clear by Paxton himself, who gloated on Twitter, using the language of the far-right that he “just secured a win for families against the gender ideology of doctors, big pharma.” Paxton, who campaigned with Abbott against all COVID-19 restrictions, include a ban on school mask mandates, has zero concern for the lives of children.

If the ruling has made anything clear, it is that democratic rights can’t be defended through the capitalist courts, which as is typified by the Supreme Court as well as the Texas courts, are full of reactionaries and outright fascists. Those who are placing their energies in the courts are fooling themselves.

The Democrats ostensibly solidarize themselves with transgender people and their parents, claiming they are on their side, with Democratic candidate for Texas governor Beto O’Rourke visiting a trans family to cook dinner for them and Biden’s declaration that “I’ll always have your back as your President.”

The reality is that the Democratic Party is opposed to any mass movement against the fascistic Republican Party and is the graveyard of social movements. This is typified by the Democrats failure to pass any legislation to codify *Roe v. Wade*, or protections against the blatant discrimination against trans youth, let alone to call for a mass movement against the mounting infringements on democratic rights.

The fight to defend democratic rights cannot be undertaken through the Democratic Party or the courts, that is, through the institutions of the capitalist class. It must be in opposition to these reactionary institutions, based on the working class whose immense power is alone capable of defending democratic rights.

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