

# The Texas Supreme Court's anti-abortion ruling and the war on democratic rights

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The Texas Supreme Court's abrupt intervention to block a medically necessary abortion is not only a monstrous injustice. It is a concentrated expression of the profound rot of the whole social order in America, with fundamental human rights under siege and collapsing across the board.

Kate Cox is a 31-year-old Texas woman whose "life and future fertility" were endangered by a pregnancy marked by serious medical problems, according to her doctors and attorneys. Her fetus was diagnosed with a lethal abnormality that her doctors advised her "is likely to end in a stillbirth or at best, her baby will live for only minutes, hours, or days." On top of this, she faced an increased risk of debilitating long-term complications because her two previous pregnancies had required cesarean sections. As her pregnancy continued, her condition worsened, and she was seen in the emergency room no less than four times.

Her physician, Dr. Damla Karsan, recommended an abortion. But because of a draconian new Texas law that criminalizes anyone who performs or "assists" in an illegal abortion, Cox and Dr. Karsan sought emergency approval in court for the abortion to proceed because it was medically necessary. On December 7, approval was granted on an emergency basis by Texas District Judge Maya Gamble.

The attorney general for the State of Texas, Ken Paxton, demanded that the Texas Supreme Court intervene on an emergency basis to overturn the district judge's decision. He also sent menacing letters to the hospitals in Houston where he believed Cox might try to have the procedure performed, threatening doctors with "first-degree felony prosecutions," which carry a possible sentence of life in prison, together with the imposition of \$100,000 in fines, if Cox received an abortion. Paxton argued that the "life of an unborn child is at stake" and that "Texas law does not permit abortions solely because the unborn child is unlikely to have sustained life outside the womb."

Paxton is a notorious villain, even by the standards of Texas state politics, having been impeached on corruption charges earlier this year and narrowly escaping conviction. A specialist in using the court system to stage fascistic

provocations, he has used his powers as attorney general to block any efforts to combat COVID-19, to aid in Trump's coup attempt on January 6, 2021, and to defend the use of razor wire to trap and drown refugees attempting to cross the Rio Grande River on the border with Mexico.

On Monday, hours after Cox had notified the Texas Supreme Court that she intended to flee the state and obtain an abortion elsewhere, the justices handed down a decision in favor of Paxton.

The decision employs the language of the Christian fundamentalist far right, referring to the fetus as Cox's "unborn child." Overturning the decision of the district judge, the Supreme Court determined that Cox had failed to prove that she was "at risk of death" or that her pregnancy "poses a serious risk of substantial impairment of a major bodily function unless the abortion is performed."

In other words: Maybe she'll be maimed and disfigured, but she'll probably survive!

Trampling on the scientific and medical advice of a doctor concerned for the safety of a patient, the Texas Supreme Court decision resonates with the most deranged attacks by Republican officials on medical professionals associated with efforts to combat the spread of COVID-19. This framework places doctors in an impossible position, forcing them to choose between professional malpractice on the one hand, neglecting the health and safety of their patients, and, on the other hand, prosecution and jail time should some black-robed ignoramus later announce that the procedure was not appropriate.

The conduct of Paxton and the Texas Supreme Court exposes the Republicans' professed concern for "the life of the mother," which is supposedly reflected in "exceptions" written into some abortion bans that have been enacted in Republican-controlled states. In practice, these "exceptions" can be arbitrarily ignored.

This decision by the highest court of America's second most populous state, from which there is no appeal, serves as a green light for similar travesties to be perpetrated by judges in states with similar laws. And while Cox was able

to afford to travel to another state to obtain the procedure, many working class women and girls will not have that luxury. Without access to professional medical care, they will turn instead to coat hangers and contraband pills, regardless of what laws are on the books.

The oppressive weight of these religious fundamentalist laws, as a rule, falls specifically on the working class. Wealthy women and their families will always be able to afford an abortion in a different state or country, if not a safe and discreet procedure where it is officially illegal.

The Russian revolutionary Leon Trotsky once described a woman's right to abortion as "one of her most important civil, political and cultural rights." In the modern world, the right is not only essential to physical autonomy and individual freedom, but to equal participation in social and political life. In *The Revolution Betrayed* (1936), Trotsky listed the Stalinist regime's abrogation of the right to abortion, which had been guaranteed by the 1917 October Revolution, as one of its many great betrayals.

The right to abortion has never been fully recognized in the United States. It was partially upheld on qualified constitutional grounds in the landmark *Roe v. Wade* Supreme Court decision in 1973, only to be reversed last summer in *Dobbs v. Jackson Women's Health Organization*.

The *Dobbs* decision set the stage for the nightmare now gripping the state of Texas. It also opened the floodgates to pseudo-legal attacks not just on the right to abortion but on a century of democratic reforms: voting rights, freedom from discrimination, the rights of criminal defendants, the rights against police brutality, the right to same-sex marriage and sexual freedom, the right to strike and the right to privacy have all been placed on the chopping block.

The Texas Supreme Court's decision was handed down as the United States government and its proxies in Israel entered the third month of their deliberate genocide of the people of Gaza. While the Republicans cynically insisted on the "sanctity of human life" in their vindictive campaign against a suffering pregnant woman in Texas, they have positioned themselves as the most bloodthirsty advocates of the mass murder of Palestinians. In the words of Ohio Republican Congressman Max Miller, "Palestine will be turned into a parking lot."

Military violence abroad and the dismantling of democratic rights at home are interrelated processes, as the *World Socialist Web Site* has insisted throughout decades of uninterrupted military aggression by the United States. A government that can get away with murdering tens of thousands of innocent workers and children abroad cannot be expected to respect the rights of workers and children within its own borders. In flagrant violation of free speech

and academic freedom, the American government is already staging inquisitorial hearings to demand that universities crack down on the eruption of popular opposition to the war crimes being perpetrated in Gaza.

In the course of this protracted process, the American judiciary, in particular, has suffered a massive collapse in its prestige and legitimacy. The mystique of the black robes and stately courtrooms is rapidly dissipating, as far-right judges like Supreme Court Justice Clarence Thomas flaunt their corruption in full public view. Judges, it turns out, are capable of just as much corruption, stupidity and tyranny as politicians belonging to the other branches of government.

Meanwhile, the extremely provocative conduct of the Christian fundamentalist far right is an inverse reflection of the narrowness of its social base. In America, at least 70 percent of the population supports the right to abortion. However, that popular sentiment struggles to find expression in a political establishment completely hostile to the needs and aspirations of the vast majority of the population.

Notwithstanding a handful of token and verbal efforts for purely electoral purposes, the Democrats sit on their hands while the Republicans carry out their rampage against reproductive rights, as part of the Democrats' efforts to achieve "bipartisan unity" in support of the Biden administration's imperialist military operations in Eastern Europe, the Middle East and East Asia.

As working people are beginning to recognize in America and around the world, the capitalist state, capitalist political parties and capitalist courts are not reliable guarantors of basic democratic rights. They are, in fact, the opposite. They represent the forces in the dynamic that are most hostile to and destructive of those rights. This reflects the fundamental tendency of capitalism in its final period, which is not towards democracy, but towards dictatorship and war.

The absolute and unqualified right to abortion, together with all other fundamental rights necessary for complete human emancipation, will be finally and permanently guaranteed in the struggle to replace capitalism with socialism.



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