

Alabama court ruling on embryos: A sweeping attack on democratic rights and science

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The ruling issued Friday by the Alabama state Supreme Court declaring a frozen embryo to be a person under state law is a sweeping attack on science, democratic rights and the constitutional separation of church and state. At the same time, the passive, indifferent response of the Biden administration to this ultra-right provocation demonstrates again that no section of the capitalist political elite, including the Democratic Party, will defend democratic rights. This vital political task must be taken up by the working class.

The state Supreme Court decision came in response to a civil suit for damages by parents whose embryos were accidentally destroyed at the laboratory where they had been stored for *in vitro* fertilization (IVF). A lower court had rejected the suit, ruling that an embryo was not an “unborn child” as defined in the state constitution. A referendum approved by Alabama voters in 2018 inserted a ban on abortion into the state constitution, which took effect after the US Supreme Court’s *Dobbs* decision in 2022 repealing *Roe v. Wade*.

The state’s highest court overruled the lower court decision, declaring in Orwellian language that fertilized embryos, clusters of protoplasm as small as 100 cells, were “extrauterine children,” entitled to the same protection under state law as a living, breathing child in a schoolroom. The ruling was outrageous both legally and constitutionally. It purported to use an 1872 state law allowing parents to sue over the death of a “minor child” and apply it to embryos created by IVF, a medical technique only developed in the 1970s, more than a century later.

This will have the practical effect of ending IVF in the state of Alabama, since doctors, clinics and parents would all fear being held liable for the destruction of embryos, a frequent by-product of the fertilization process, during which embryos with genetic abnormalities or those left over after successful implantation are generally discarded, or donated for research. In response to the ruling, the state’s largest hospital system, University of Alabama at

Birmingham, halted all IVF procedures out of concern that “our patients and doctors could be prosecuted criminally.”

IVF is one of the most important medical advances of the past half-century, with millions of successful implantations leading to the birth of healthy children. In 2021, the last year with complete data, nearly 100,000 babies were born in the United States through the use of IVF. But even if some fertility clinics manage to survive in Alabama, the court’s decision will drastically increase the difficulty and expense of IVF, which is already \$15,000 to \$20,000, an enormous burden on working class parents who want children.

RESOLVE, the National Infertility Association, described the decision as “a terrifying development for the 1 in 6 people impacted by infertility who need in vitro fertilization to build their families.” And it warned, “this ruling has profound implications far beyond Alabama’s borders. Every American who wants or needs access to family building options like IVF should be deeply concerned about this development and the precedent it will set across the country.”

The Alabama ruling is a direct consequence of the US Supreme Court’s *Dobbs* decision, which overturned *Roe v. Wade*, the watershed 1973 Supreme Court decision that struck down anti-abortion laws across the country. *Dobbs* also called into question the earlier 1962 decision in *Griswold v. Connecticut*, which struck down a ban on contraception in Connecticut and for the first time acknowledged a constitutional right to privacy. The ruling asserted that there were spheres of life, including decisions on reproduction, into which no government, at state or federal level, could intrude. Now it is clear that ultra-right courts will not admit to any limitation on the repressive powers of the capitalist state.

Constitutionally, the ruling is in brazen defiance of the First Amendment, which begins with the words, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ...” This prohibition was

extended to the states by the 14th Amendment, which incorporated all the amendments that constitute the Bill of Rights. But the 138-page ruling is clearly based on Christian fundamentalist religious principles, which will now be imposed on the people of Alabama regardless of their own views. (Even in Alabama, the state with the highest percentage of evangelicals, that figure only comes to 49 percent, according to a recent report by Pew Research.)

The concurring opinion by Chief Justice Tom Parker openly quotes the Bible, including Genesis and the prophet Jeremiah, as the basis of his “legal” opinion. “Human life cannot be wrongfully destroyed without incurring the wrath of a holy God, who views the destruction of His image as an affront to Himself,” Parker wrote. “Even before birth, all human beings bear the image of God, and their lives cannot be destroyed without effacing his glory.”

Interviewed on a podcast espousing the fascistic QAnon conspiracy theory, uploaded last Friday, the same day as the ruling, Parker declared, “God created government,” and it’s “heartbreaking” that “we have let it go into the possession of others.” He then invoked the Seven Mountain Mandate, another fascistic trope calling for a takeover of seven key areas of American society: religion, education, family, government, economy, media, and entertainment/arts. He also asserted that “the holy spirit is there” when he takes action as chief justice.

This type of religious claptrap boosts the so-called personhood movement, which seeks to establish legally that human life begins at fertilization. The first step was the definition of the fetus, at every stage of its development, as a human being. Now embryos stored in a laboratory are described as “little people,” according to Parker, and the lab as a “cryogenic nursery,” according to the court opinion. Eleven states have so far adopted personhood legislation.

The Biden administration has not lifted a finger against the deluge of right-wing legislation which has followed the 2022 *Dobbs* decision, nor has the Democratic Party. They make use of the issue as a vote-getter in elections, appealing to the broad popular support for the right to abortion. But they do nothing in practice to defend it or any other democratic right.

The White House issued no statement on the Alabama ruling, and press spokesman Karine Jean-Pierre devoted only one paragraph to the subject at a press briefing conducted while Biden was making yet another trek through California, shaking the billionaire money tree for his campaign. He made remarks behind closed doors at the home of billionaire Hollywood Zionist Haim Saban Tuesday night, then spoke at several more fundraisers in the Bay Area on Wednesday.

This passivity is of a piece with Biden’s response to the

open usurpation of federal authority by Texas Governor Greg Abbott, who has ordered the Texas National Guard and state police to turn back migrants at the US-Mexico border, defying the Constitution, which clearly makes the federal government supreme in all questions relating to borders and immigration.

Biden could federalize the National Guard, removing it from Abbott’s control, and bring other state governments to heel for defying the Constitution and attacking democratic rights. But he does nothing, still seeking bipartisan agreement with congressional Republicans on a huge increase in military spending for the war against Russia in Ukraine. In effect, he is allowing a vast area of the country, ruled by Republican governors and Republican-controlled state legislatures, to carry out the policies espoused by the fascist Republican presidential candidate, ex-President Donald Trump.

The Alabama ruling will resonate with religious fanatics opposed to the separation of church and state and anti-vaccine, anti-science demagogues like Robert F. Kennedy Jr. They feel they can run amok with the backing of the US Supreme Court and the spinelessness of the Democratic Party and the Biden administration.

But for the working class, the attack on abortion rights and other elements of reproductive freedom, such as *in vitro* fertilization and contraception, must be seen as a deadly threat to democratic rights, and workers must act accordingly.

This means establishing the political independence of the working class from the capitalist two-party system, whether represented by open fascists like Trump or supposedly liberal representatives of the corporate oligarchy (and supporters of genocide in Gaza) like Biden. The central question is to mobilize the strength of the working class in political struggle against the entire capitalist system and its political defenders, on the basis of a socialist program.



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