Grumet: See you in court? For abortion, yes. Voting rights, maybe not.


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Funny. I thought our state leaders *wanted* regular Texans to help enforce the important stuff.

Like that time Gov. Greg Abbott urged "members of the general public" to call Child Protective Services to report any young person receiving gender-affirming medical care.

Or that time the Legislature deputized private citizens to become abortion bounty hunters, using the mere threat of costly civil lawsuits to upend access to reproductive services.

Or the new push — one of Lt. Gov. Dan Patrick's top priorities for the next legislative session — for a bill to chill discussion of LGBTQ issues in classrooms by empowering people to sue school districts over lessons they dislike.

Yes, dear Texans, the courthouse doors are wide open to you when it is time to fight the culture wars. In fact, our state leaders are counting on your litigious spirit! But when it comes to the most fundamental issue in our civic space — our right to access fair elections, free of discriminatory policies or manipulated maps — well, those same Republican officials would rather slam the courthouse doors in your face.

In defending lawsuits over our state's redistricting maps, plainly drawn to drown out the voices of Black and brown Texans who fueled much of our state's population growth, the office of Texas Attorney General Ken Paxton has taken the stunning position that individuals have no standing to sue under Section 2 of the Voting Rights Act. Simply because they're individuals.

As the Texas Tribune recently reported, Paxton is test-driving an argument that only the U.S. Department of Justice can challenge state or local election policies under a law that was designed *to protect all voters*. Not only does that ignore decades of precedent from private lawsuits filed under the Voting

Rights Act, but it would leave enforcement solely in the hands of whichever party occupied the White House at any given moment.

I spoke to two legal experts about this, and they used the same word to describe the attorney general's argument: Ridiculous.

"Congress has reenacted the Voting Rights Act many times, most recently in 2006, knowing that private plaintiffs commonly sue," Rick Hasen, a law professor at University of California, Irvine, told me. "If Congress believes this kind of lawsuit is improper, Congress could have written language declaring the absence of such a right in the act itself."

Steve Vladeck, a University of Texas School of Law professor, was equally incredulous about Texas' new argument over a federal law that has been in place for 57 years. Not surprisingly, the federal judges who've considered this argument so far have rejected it, but you can expect to see this issue raised on appeal.

What about the apparent double standard over who can sue and when? In fairness, I should note that the Voting Rights Act is federal law, while the Texas measure on abortion involves state legislation. The officials crafting any law get to spell out the enforcement mechanism, whether it's up to the government or private citizens to seek redress.

Still, it takes a certain audacity for the Texas GOP leaders to argue residents have a valid legal interest in, say, suing someone who helped with a stranger's abortion, but not a valid legal interest in suing over policies that hinder their participation in our democracy.

"I think we're seeing no one is offended by hypocrisy anymore," Vladeck said. "And so when you have state officials take completely inconsistent positions on similar topics for no perceivable reason other than to serve a political purpose, they pay no price. Courts don't hold it against them. Voters don't hold it against them."

Let's be clear: This is not a theoretical exercise. The U.S. Supreme Court in 2013 gutted another part of the Voting Rights Act that had required communities with a history of racial discrimination to get federal approval, or preclearance, before changing any election procedures. With that check gone, the main path for recourse against unfair voting policies is a lawsuit under Section 2, a portion of the Voting Rights Act that still stands.

Residents in the Houston suburb of Pasadena learned how important that avenue can be. Freed from preclearance, the city in 2013 revamped the

structure of its City Council to add a couple of at-large seats, diluting the voting power of Hispanic residents. Lawsuits brought by those residents — notably, not by the feds — ultimately forced Pasadena to dismantle that plan and return to equitably drawn council districts.

If Paxton had his way, those residents would have had no recourse.

“A Voting Rights Act that could be enforced only by the Department of Justice would leave a lot of Voting Rights Acts violations untouched,” Hasen said, “because the Department of Justice, while large, does not have unlimited resources, especially to deal with problems at the local level, where private plaintiffs have brought very important lawsuits to court.”

Paxton now finds himself in court to defend the latest maps carving up legislative and congressional districts that give an outsized advantage to white, rural, conservative Texans. But he's not only defending those maps. He's loading up on arguments to further diminish the reach of the Voting Rights Act, in case the increasingly conservative Supreme Court is interested in taking another swipe at the landmark elections law.

What a shame. This shouldn’t be a Republican issue or a Democratic one. Anyone who values fair elections should expect the courts to hear out potentially disenfranchised voters.

If your rights are at stake, you should have a right to be heard.

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