

Texas governor claims migrant “invasion” justifies defying federal authority over border

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In brazen defiance of federal authority that has no parallel since at least the civil rights era, fascistic Texas Governor Greg Abbott issued a letter Wednesday declaring an “invasion” of his state by migrants crossing the US-Mexico border. The letter claimed that the right of Texas to “self-defense” was “the supreme law of the land and supersedes any federal statutes to the contrary.”

A direct physical confrontation between state and federal authorities could develop around the town of Eagle Pass, Texas, where state forces have taken control of a two-mile stretch of the border, denying access to the US Border Patrol.

The US Supreme Court ruled Monday that Texas must allow the Border Patrol to cut through razor wire laid down by the state along a section of the border, including Eagle Pass, asserting the authority of the federal government over the state of Texas. The ruling narrowly upheld, by a 5-4 decision, the plain language of the US Constitution.

On Tuesday the federal Department of Homeland Security demanded “full access” by January 26.

Abbott’s one-page letter greatly escalates the conflict between Texas and the federal government. It is not only the assertion of an extreme form of the “states’ rights” doctrine upheld by the diehard defenders of racial segregation of the 1950s and 1960s. It also makes multiple assertions of illegal and unconstitutional conduct that amount to a case for the impeachment of President Joe Biden.

The language of Abbott’s letter has no modern parallel. “The federal government has broken the compact between the United States and the States,” he writes, voicing a long-discredited claim by the slave-owning South before the Civil War, which held that the federal union was a “compact” that states were empowered to leave at their discretion.

These developments recall the Nullification Crisis of the 1830s, a prelude to the American Civil War. Responding to unwanted tariffs passed by the federal government, the state of South Carolina declared that it had the right as a sovereign state to nullify the tariff within its state boundaries, threatening to secede if the federal government attempted to intervene.

The crisis nearly came to war, with the government of Andrew Jackson passing the Force Bill in 1833 authorizing the federal government to take military action against the state of South Carolina. The federal government resolved the immediate crisis by easing the tariff to meet South Carolina’s demands, but the underlying conflict would continue to escalate until South Carolina became the first state to secede from the Union in December 1860.

The assertions that Biden is guilty of criminal behavior for allegedly refusing to enforce US laws on immigration are also unprecedented. Abbott accuses Biden, not of his real crimes, such as enabling the Israeli genocide against Gaza, but of entirely invented ones. According to his letter, Biden “has refused to enforce” immigration laws and “even violated them.” He has “ignored Texas’s demand that he perform his constitutional duties.”

Biden has “violated his oath to faithfully execute immigration laws enacted by Congress” and has instructed agencies “to ignore federal statutes that mandate the detention of illegal immigrants.” He has adopted “lawless border policies” and engaged in an “illegal refusal to protect the States.” Biden is described again as “a lawless president.”

The most remarkable passage is the final paragraph, which asserts a constitutional basis for Texas to defy federal authority over the border, even though the Constitution provides for the direct opposite—federal supremacy on that issue. Abbott writes:

The failure of the Biden Administration to fulfill the duties imposed by Article IV, §4 has triggered Article I, §10, Clause 3, which reserves to this State the right of self-defense. For these reasons, I have already declared an invasion under Article I, §10, Clause 3 to invoke Texas’s constitutional authority to defend and protect itself. That authority is the supreme law of the land and supersedes any federal statutes to the contrary.

Article I Section §10 is actually a sweeping assertion of federal, not state, authority and declares that no state shall “keep Troops” or “engage in war, unless actually invaded.” The claim that the influx of desperate, hungry migrants, fueled by poverty and oppression, constitutes an invasion is a repudiation of the entire history of the United States, whose population is overwhelmingly descended from just such migrants, albeit mainly from Europe. The current campaign against “illegal immigrants,” engaged in by both capitalist parties, even with different rhetoric and at different volumes, is fundamentally racist and chauvinist.

The logic of the Republican anti-migrant demagoguery is clearest in the statements of outright fascists, such as retired General Michael Flynn, once Trump’s national security adviser and a leading

propagandist for his “stolen election” lies. In an op-ed published in *The Western Journal*, Flynn argued that “military-age men are pouring over the border from countries that despise our nation” and that the US Supreme Court justices ruled in favor of the Biden administration to “facilitate the invasion of the nation” for a “reconquista of the Southwest United States by Mexico.”

In a policy brief on declaring an invasion, Ken Cuccinelli, a former deputy secretary of homeland security under Trump who never received Senate confirmation, discusses “How States Can Secure the Border.” Cuccinelli argues that border states should declare an invasion, reject the authority of federal officials, mobilize the National Guard and draft an interstate compact on border security. Cuccinelli ignores the fact that the formation of compacts between states without the approval of the federal government is prohibited by the Constitution.

Cuccinelli also calls for states to deputize citizens to make border crossing arrests and round up migrants for deportation, effectively creating fascist gangs to hunt down migrants.

The logic of Abbott’s concocted “constitutional” argument is either the secession of Texas from the United States, the impeachment and removal of Biden, or his arrest should he set foot in Texas for supposed crimes against that state.

The practicality of such a stand, given the massive federal government presence in Texas, including more than a dozen military bases with tens of thousands of federal troops, remains to be seen. But Abbott has certainly dared the Biden administration to enforce its authority.

Several Democratic congressmen from Texas have urged Biden to respond by federalizing the Texas National Guard. Similar action was taken in several Southern states, including Arkansas, Alabama and Mississippi, during the period when Southern governors were the last-ditch defenders of segregation.

The White House has given no encouragement to such calls, which Biden opposes, both because it would further highlight the issue of immigration during the election campaign and because there is no certainty that an order to federalize the guard would be obeyed by the state commanders.

The Biden administration, moreover, is still seeking to reach a deal with Republicans in Congress that would exchange agreeing on a massive escalation of the attack on immigrants for guarantees of increased funding for the US-NATO war against Russia in Ukraine, the Democrats’ primary concern.

Two dozen Republican governors have rallied to Abbott’s side in this conflict. These include the governors of Alaska, New Hampshire, Indiana, Ohio, Virginia, West Virginia, Tennessee, Georgia, Florida, South Carolina, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, Nebraska, Missouri, Iowa, South Dakota, North Dakota, Wyoming, Montana, Idaho, Utah and Nevada.

The Republican Governors’ Association issued a statement reproducing, virtually word for word, Abbott’s bogus legal argument. “The authors of the US Constitution made clear that in times like this, states have a right of self-defense, under Article 4, Section 4 and Article 1, Section 10, Clause 3 of the US Constitution,” the statement reads. “Because the Biden Administration has abdicated its constitutional compact duties to

the states, Texas has every legal justification to protect the sovereignty of our states and our nation.”

Both the presumptive Republican presidential nominee, ex-President Trump, and House Speaker Mike Johnson have likewise issued statements backing Abbott. In a statement on X, formerly Twitter, Johnson said, “The House will do everything in its power to back him [Abbott] up. The next step: holding [Department of Homeland Security] Secretary Mayorkas accountable.” Impeachment proceedings against Mayorkas are already in the works.

In geographic extent, the states whose governors back Abbott’s defiance include every state in the old Confederacy except North Carolina, which has a Democratic governor. North Carolina, Kentucky and Kansas, all with Democratic governors, are islands in a vast territory extending from the Atlantic Coast to the Gulf Coast, north to the rim of the Great Lakes, then northwest all the way to the Canadian border.

The map largely reproduces the Electoral College split in the last six presidential elections, with the pro-Democratic Northeast and West Coast and a section of the Great Lakes and Southwest separated by a huge pro-Republican swath comprising the bulk of the land area of the United States, although less than half its population.

In its New Year’s statement, the *World Socialist Web Site* took note of the developing split among the states over excluding Trump from the ballot because of his instigation of the attack on the US Capitol on January 6, 2021, as well as the conflict over immigration policy. We wrote:

The escalating sectional tendencies threaten to break apart the entire post-Civil War settlement which reestablished unified federal authority over the separate states. It is worth recalling that in 1860 Lincoln did not appear on the ballot in any of the Southern states. The decision of seven Southern states to secede and form the Confederate States of America, prior to Lincoln’s inauguration, set into motion the events that led to the outbreak of the Civil War a few months later.

Of course, the conflict tearing apart the existing political structures is not between progressive and reactionary factions of the ruling class. The Democrats and Republicans are two reactionary factions of the corporate and financial oligarchy. However intense their tactical differences, they are entirely subordinate to their common reactionary agenda.



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