

The Texas Constitution

The Persistence of Limited Government?

Constitutions serve two general purposes. First, they establish the basic structure of government, specifying where power lies and what powers the government possesses. Second, constitutions limit government powers by enshrining civil liberties that the government cannot violate. The Texas Constitution accomplishes both of these purposes, but was also designed to make government policymaking a difficult task.

At more than 93,000 words and counting, the Texas Constitution lacks elegance and economy. It reflects the state's individualistic political culture and a mistrust of government, which have translated into weak political institutions across the board. Consistent with its original intent of ensuring state government would never be oppressive, the Texas Constitution fragments and limits government power.

Critics of the Texas Constitution claim it is too long, too complicated, poorly organized and, most importantly, handicaps the state government from effectively addressing the challenges of an economically complex, modern society. Such critics believe constitutional reform is desperately needed to provide a more efficient political system. Yet constitutional reform, attempted on several occasions in the state legislature, has consistently failed. Whatever its flaws, it is clear the Texas Constitution accurately reflects the prevailing political culture of the state, a culture that is hostile to government and suspicious of centralized power. The document embodies popular sovereignty, the political theory that government is created by and subject to the will of the people.

Virtual Roundtable 1

The Texas Constitution today is still similar to the original 1876 document, despite more than 400 amendments. Its original philosophy reflected the political culture and values of those who created it. Does the Texas Constitution still reflect the origins of Texas political culture?

Video: Sonia R. Garcia, Associate Professor of Political Science, St. Mary's University

Video script:

Our Texas Constitution is still very much a reflection of our political culture and the experiences of the framers in 1876. Not as much has changed. Our Texas Constitution is for the most part the same...the same. We have a very limited government. We have a state legislature that is...that meets every two years for approximately 140 days. We have a very weak governor, the office of the governor, and partisan elections. So not much has changed and I think that's...that in itself is a reflection of our political culture and our Texas Constitution.

End of video.

Video: Jim Hightower, Populist & Political Commentator, Texas Agricultural Commissioner (1982-1991)

Video script:

You go back not only to the 1876 Constitution, but go back further to the original state constitution, again Texas has...is a state of mavericks and mutts. And those mavericks and mutts did not ever like, and do not today like, centralized power, whether that power is corporate or governmental. In the original state constitution, for example, banks were outlawed. You could not form a bank in Texas. To create a corporation, you had to get a two-thirds vote of both houses of the legislature. People who came here were fleeing debt. They were looking for opportunity and they didn't trust corporations one whit. So that...that culture still exists in our state, or that populist instinct against concentrated power, still exists. And to a large degree our constitution, that we're still under, reflects that – a desire for decentralization of power, very little political opportunity, in terms of the legislature being in session, for them to make as big a mess as they might otherwise make.

End of video.

Video: Elise Hu, Journalist & Political Reporter, Austin, TX

Video script:

There's a lot of people who ask, "What's with Texans? Why do you always believe that Texas is bigger, is better, and have that independent spirit?" I think a lot of that is bred in the way that Texas came about, that we were our own country at one point and that our constitution also reflects this kind of singular exceptionalism that we believe that Texas kind of has. And so, you know, in the 2009 legislative session, there was some controversy with our governor because he maybe promoted secession and while he says and insists that this is not what he said, and surely he does not want the state of Texas to secede from the Union, this is kind of part of that general theme that Texas has had in its history and even in modern times, that Texas is kind of better than the rest of the states or better off. At least we like to think so.

End of video.

Video: Hon. Bill Meier, Former State Senator (1973-1983), Fort Worth, TX

Video script:

I watched it with interest by keeping track of the things happening in Austin just like what I've always done. I never had a role as a lobbyist or I never went back to Austin after I once left there in '82. But I did follow things with interest and Bill Ratliff's effort to again attempt to vote out and allow the people to vote on a constitutional revision met with the same lack of success twenty years later as what was there in '74 and '75. People in Texas are very independent people. And people believe that less government is better than more government. They don't mind having multiple amendments and votes from time to time, whenever what you are trading out for that kind of structured government is limited power in the governor's office and limited power in the legislature. And those are reflective of attitudes of Texans and most people believe that that's stood Texas pretty well and so that's why we've not had a change in our constitution.

End of video.

Virtual Roundtable 2

About half of the states in the U.S. provide citizens with the power of initiative and referendum – the ability to create new laws by overturning legislative acts by popular vote. While the Texas Constitution does not grant its citizens either of these powers at the state level, both are allowed in home-rule cities. Should Texans be granted the right to use the initiative and referendum processes at the state level?

David F. Prindle, Professor of Government, University of Texas at Austin

Video script:

If you look at the way California and Wisconsin and Texas have been governed over the years, especially if you compare California to Texas, you can say that the initiative and referendum in California has made California better governed in some ways and has been a disaster in others. It appears to me that however you structure your democratic government, there are always going to be some actions of government that you can be proud of and some that are disasters. So it seems to me that adopting the initiative referendum and recall in Texas would not make it any worse but would not make it any better either.

End of video.

Video: Bob Ray Sanders, Associate Editor/Senior Columnist, Ft. Worth Star-Telegram

Video script:

I don't like the initiative and referendum process at the state level, because everything comes up for a vote when some policy ought to be made by the legislators and we hold them accountable once they come back home asking for our vote. Everything shouldn't be voted on frankly. When I was growing up right here in this city, if somebody decided to vote whether or not I would have some civil rights, I would've lost. If they'd voted on men getting out of slavery or my ancestors getting out of slavery, I'm not sure how much longer it would have been before slaves were free in the United States and Texas. So there are some things that I don't think you take and there are things that tend to get to the referendum stage is not great policy. It's just that often emotional issues affecting individuals and I don't I don't think you put that up to a

popular vote when there are clear rights that individuals have and should not be tampered with by a majority.

End of video

Video: Jim Riddlesperger, Professor of Political Science, Texas Christian University

Video script:

well, I always like to answer questions about initiative and referendum by pointing out that it's a mixed blessing, because while it does on the one hand certainly allow for grassroots participation in politics and that's a good thing. It also does tend to have people who are zealots in charge of the process and that may not be a good thing. So one of the things about the initiative and referendum process nationwide is that it does certainly raise interest in government and from that perspective, if more people are involved and more people are plugged in, then it's certainly a positive thing. On the other hand, if it's people with vested interests who are willing to spend a huge amount of money spinning a yarn about what a topic is, it can certainly have the other effect. So it's a mixed blessing, but it certainly is something that is a very democratic process and has been used to good advantage in some states

End of video.

Activity: Check Your Understanding

Covers why the Texas Constitution is so difficult to interpret. Also mentions popular sovereignty, one of the dominant principles of the Texas Constitution.

Additional Resources

Websites

[Initiative and Referendum in Texas](http://www.citizensincharge.org/states/texas)

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Citizens in Charge, a citizen-powered advocacy group, works to protect and expand the initiative and referendum process throughout the United States. The organization's website provides the latest news and commentary on issues relating to initiative and referendum in Texas.