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TEXAS SOCIETY AND POLITICS: PAST AND PRESENT

LEARNING OBJECTIVES

- 1.1 Discuss the impact of Texas's physical geography and early history on the growth of settlements and their economies.
- 1.2 Summarize the influence of the cotton economy, slavery, and western expansion in early Texas.
- 1.3 Evaluate the challenges faced by the Texas Republic and the arguments for and against annexation by the United States.
- 1.4 Discuss the reasons for Texas seceding from the Union.
- 1.5 Evaluate the Reconstruction Era and its influence on the Constitution of 1876.
- 1.6 Assess the long-term effects of Jim Crow segregation.

In 1947, Texas governor Beauford Jester published an article titled “Texans Are a Race of People.” The governor described what “set them apart from ‘natives’ of other states” and went on to discuss “the heritage of the brave men and women who laid the foundations of the civilization that became Texas.” He explained that the people who settled Texas possessed a “pioneering spirit.” He wrote of conflicts with the Mexican government, Texans’ desire to be annexed to the United States, and the Republic that governed from the end of the Texas Revolution in 1836 until annexation by the United States was complete at the end of 1845. Jester described Texan efforts to control “hostile Indians” on the frontier and the dramatic story of Anson Jones, the last president of Texas, who lowered the Lone Star flag and raised the Stars and Stripes, and declared, “The Republic of Texas is no more.” What Jester failed to mention in his brief, yet stirring, story was that Texas had a long history before the arrival of the first settlers from the United States in 1821 or that Texas history did not end in 1845. Texas’s multicultural and multiracial history has often been ignored. Sadly, many in Texas have heard only a dominant view of Texas history, one that neglects the voices, experiences, and contributions of native peoples, Spanish and Mexican settlers, and enslaved and free Black people, as well as the contributions of White Texans who opposed slavery and the violence committed by some of these Texas “heroes” against anyone who did not fit the “Texas” mold.¹

Like Governor Jester, when most Americans think of the story of Texas today, they focus on the story of the White, mainly Protestant, U.S. settlers who came to Texas. They focus on the Battle of the Alamo in 1836 and annexation by the United States in 1845. Perhaps they think of the cattle drives of the 1860s and 1870s and of ranches, or maybe oil wildcatters in the early 1900s. Generations of children grew up hearing stories of the Lone Ranger, a masked former lawman who, after being attacked by outlaws, donned a mask and together with his faithful “Indian companion” Tonto fought for justice in the Old West. But less commonly told are the contributions of the Spanish and Mexican *vaqueros* (cowboys) who brought cattle ranching to the area, or of Black people who served in the cavalry as “buffalo soldiers.” There were many Black and Latino cowboys, lawmen, and even some judges, but their stories are rarely told. Most of us have seen movies or television shows on the Alamo and its “heroes,” Davy Crockett and Daniel Boone, who fought bravely in its defense. But did those shows include the many **Tejanos** (Texans of Spanish or Mexican descent) who fought for the young Republic or died defending the Alamo? Television shows like *Dallas* and *Walker, Texas Ranger* have built on

those popular images of who Texans are and what the Lone Star state represents. The shows feature White men as the “heroes” who build empires or bring criminals to justice. Texas, in the popular imagination, is replete with tall tales and legends—after all, “everything is bigger in Texas.”

Texans themselves have been quick to capitalize on the myths and legends. In the early 1960s, developers who wanted to build a Disneyland-style theme park near Dallas used the state’s contested past as a marketing hook and named it Six Flags Over Texas, simplifying the state’s long history to a narrative in which six different nations claimed control of Texas. The theme park’s gift shops sold miniature replicas of the “Six Flags of Texas”: Spain, France, Mexico, the Confederacy, the Lone Star, and the United States. Although the Six Flags legend oversimplified Texas history, it hints at two very important truths: first, that the region that encompasses Texas today was a contested environment, and second, that Texas has a rich, diverse, and complex past, with inhabitants representing different nations, ethnicities, and beliefs. Even so, the legends and myths of Texas’s past persist and often dominate discussion.

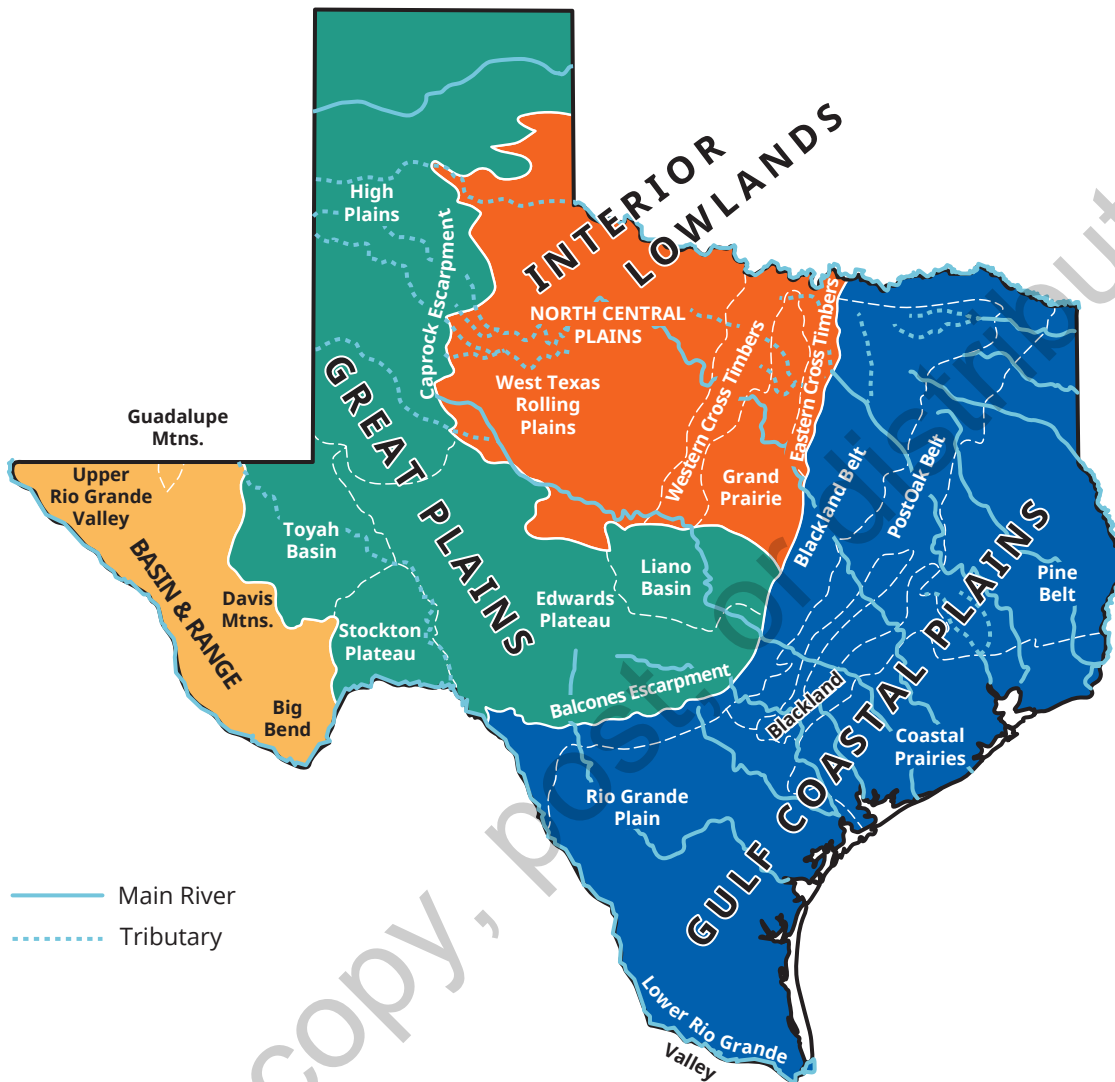
TEXAS GEOGRAPHY AND EARLY HISTORY

Texas’s varied physiography and environment accounts for some of its past and present diversity. Texans like to boast that the Lone Star state is the largest of the 48 contiguous states. It is some 800 miles from Brownsville in the south to the northern tip of Texas and almost 800 miles east to west from Beaumont to El Paso. Guadalupe Peak in far West Texas has an elevation of almost 9,000 feet, descending to sea level at the coast. The terrain is a land of contrast: lakes and deserts, mountains and plains. Texas has fertile regions that get more than 60 inches of rain a year and desolate stretches receiving less than 10.

We can divide the state into four major environmental regions (see Figure 1.1). Within each of those regions, we find various subregions. First, the North American Great Plains, which includes the High Plains in the Texas Panhandle, the rectangular portion of northwest Texas, and continues south into the Edwards Plateau and Llano Basin in Central Texas. Next, the Basin and Range is west of the High Plains and includes Upper Rio Grande Valley, the Big Bend Region, and the Guadalupe Mountain range. On the eastern side of the High Plains is the Interior Lowland region, which includes the Rolling Plains, Grand Prairie, and Cross Timbers near present-day Fort Worth. Finally, the Coastal Plains region stretches from the Southern Rio Grande Valley in the south to the Sabine River, and includes the Piney Woods, Blackland Prairie, and Post Oak Belt.

Many people think Texas is dry and dusty, which much of it is, but there are hundreds of rivers in the state of Texas. They crisscross the state, and some form part of the state’s geopolitical borders. These include the Red River, Sabine, Neches, Trinity, Brazos, Colorado, Guadalupe, San Antonio, Nueces, and Rio Grande rivers. Rivers are important today for ecological reasons, as well as recreation, and have been important for crops, fishing, travel, and commerce. To Native Americans, rivers were important for transportation, sources of water and food, and yet dangerous when flooded. Additionally, there is also underground water in aquifers that carry a tremendous amount of water across the regions they encompass. Texas has nine major aquifers and another 21 minor aquifers. These underground water sources cover almost three-quarters of the state and provide 62% of the water supply that Texans use each day. Rainfall across the state ranges from more than 50 inches per year in the easternmost counties, to less than 10 inches per year near El Paso. Drought, flooding, and severe storms and hurricanes cause billions of dollars in damage and challenge the state’s infrastructure.

FIGURE 1.1 ■ The Four Regions of Texas



Sources: "Vegetational Areas of Texas." *Texas Almanac*. Texas State Historical Association. <https://www.texas-almanac.com/article/s/texas-plant-life> and "Secondary Streams of Texas." *Texas Almanac*. Texas State Historical Association. <https://www.texasalmanac.com/articles/secondary-streams-of-texas>.

Understanding differences in the physiography of Texas helps us answer some questions that may not be obvious at first. Why did farmers who moved into western parts of the state have a more difficult time planting and harvesting crops than those in East Texas? Why was oil discovered in some places and not others? Why were Native American tribes different in different parts of the state? Why is San Antonio a city? Why did early Catholic missionaries have more success in converting Native Americans around South Texas than they did in East Texas? Why did the Dust Bowl affect certain areas of western Texas and not others? The geographic reality of the state is key to understanding many political choices Texans have made, as some areas are very dry and barren, some have rivers and rainfall, and some have oil or natural gas or other mineral deposits.

Native Peoples in Texas

The vastness and variety of the Texas landscape was also reflected in the first people who lived here. Although the Six Flags legend begins with the Spanish flag, there were people who competed for Texas long before the Spanish arrived. The names, customs, beliefs, and other information about many of these people are lost to history, but through archeological evidence we've begun to learn more about them. For example, Caddoan people built mounds for religious and tribal activities near Alto more than 1,000 years ago. As a result of exposure to diseases from European settlers, the Caddo population fell from roughly 200,000 in the 1500s to 10,000 a century later. The Caddos and other native peoples traded furs and other items with the French for guns and interacted with the Spanish missions. Although the Caddos remained in the area until the 1840s, by the time the Spanish arrived in 1536 many of the other peoples and cultures were gone; their descendants and other civilizations developed cultures, societies, languages, customs, and governing institutions in the region that is today Texas. Each was as diverse as the locations where they lived and hunted.

Spain's efforts to explore and establish missions and settlements over the next 300 years met with mixed results, depending on the indigenous ethnic and cultural groups they encountered. Native peoples resisted Spanish intrusion, the British laid claim to the area, and the semi-arid region did not support large settlements. A result, much of what is today eastern Texas was ignored by the Spanish for many years. Some Indigenous people saw the Spanish as good trade partners, others as allies against other competing tribes. Some accepted Catholicism, or perhaps tolerated it, or incorporated aspects of it into their existing religious practices. Others rejected and resisted both Spanish authority and religion.

Through the records of the Spanish explorers and missionaries, we have learned something about the various Native American groups in 1500s Texas. Karankawa people fished and planted crops along the Gulf Coast. Further inland were the settlements and villages of Caddoan tribes of East and Central Texas. In the West were the Jumano and Apache. Later, Native Americans adopted the horses left behind by or stolen from the Spanish, and groups like the Comanche drove south from the North American High Plains into Central Texas. Europeans divided these people into "tribes," although evidence shows that these groups were much more fluid than we commonly believe. Still, there is no question that the Native people who lived in Texas had civilizations, cultures, languages, and social and political structures that evolved over the centuries, and they continued to evolve and adapt to the time of the arrival of immigrants from the United States in the 1800s.

From the 1500s on, Native people intermarried and acculturated not only with other Indigenous groups but also with Spanish, Black, and other European (and eventually U.S.) settlers and traders. Some, however, retained their cultural identities. When in the mid-1800s the United States annexed Texas and other parts of the North American Southwest that had been part of Mexico, most of these people were simply called "Mexicans." Those who remained affiliated with Native cultures were largely driven off the land or killed by settlers, troops, and other Native groups. Some Indigenous cultures were forcibly relocated to reservations outside of Texas. In the 1930s, the U.S. government began officially recognizing Native American "tribes." Today, the three federally recognized tribes with reservations in Texas, the Alabama-Coushatta, Kickapoo, and Tigua, are not native to Texas.

Spanish and French Rule

From roughly the 1700s to 1810, when New Spain became Mexico, Colonial New Spain was a multicultural society. Native Americans, African explorers, servants, and enslaved people lived alongside the Spanish. As these groups mingled, they also reproduced. Children born of parents

from different ethnic groups were called *mestizos* and were born into a caste system that placed native-born European Spanish at the top. The European-born Spanish, *peninsulares*, were the highest rank and rulers. Spaniards born in the New World, *criollos*, were ranked second, while Native Americans and Africans found themselves at the bottom of the social hierarchy.

The Spanish established different types of institutions as part of their effort to colonize: missions, presidios (military forts), and civilian settlements, including towns and ranches. Towns often grew up around the presidios and served as the residences of many of the presidio's soldiers and their families. They functioned as the official government seat of the settlement, often with a town council and *alcalde* (mayor). Other settlers seeking land and adventure also took up residence in towns, along with craftsmen and others with skills that serviced the presidios and missions. The government of Spain offered generous amounts of land to those willing to settle on the frontier.

New Spain was not isolated, and conflict increased when other European agents encroached on Spanish territory. In 1685, French explorer René Robert Cavelier, the Sieur de La Salle, and his expedition were marooned at Matagorda Bay. They established a settlement, Fort St. Louis, and claimed the Mississippi River Valley for the French. When the Spanish learned of the fort and settlement, they dispatched soldiers to search for it, destroy it, and protect the Spanish claim to that territory.

In 1763, the French lost all claims on the North American continent as a result of Europe's Seven Years' War (which included the French and Indian War in North America). Spain took full control of the former French claims west of the Mississippi, while the British claimed the lands east of the Mississippi up to their colonies on the Atlantic seaboard. The war ended the disputes between France and Spain over what is today East Texas and Louisiana. Over the next several years, Spain withdrew settlers, soldiers, and missions from East Texas because it believed the French threat no longer existed. In 1766, the government of New Spain sent the Marqués de Rubí to explore the northern frontier, which spanned from present-day Sonora, Mexico, through Arizona, New Mexico, east through West Texas to San Antonio, to Los Ades in what is now Louisiana. He then returned along the Gulf Coast to Laredo. He recommended pulling back and reorganizing the frontier defenses. In Texas, Rubí suggested that only San Antonio remain, while the rest of the area should be abandoned. He also suggested exterminating the Apache, who lived throughout the region. These suggestions became the basis for the New Regulations for Presidios issued September 10, 1772.

At about the same time that Rubí was examining the Spanish frontier, the aftermath of the Seven Years' War caused turmoil in the British colonies that would eventually lead to the American Revolution in 1776. With the Treaty of Paris in 1783 between the new United States government and Great Britain, the U.S. claimed the land from the Atlantic to the Louisiana Territory, which was, at this time, claimed by New Spain. In the meantime, the Spanish governor in Texas ordered the removal of settlements from East Texas. Some settlers later petitioned to return to East Texas and, led by Antonio Gil Ibarvo, eventually reoccupied the town of Nacogdoches in 1779. In the west, San Antonio officials tried to secure a trade route to the nearest frontier outpost, Santa Fe, but the route was deemed too dangerous to be successful.

In 1800, the French leader Napoleon Bonaparte forced Spain to return the Louisiana Territory to French control. A few years later, he sold the land to the United States—the Louisiana Purchase of 1803—giving the United States a claim to the lands west of the Mississippi River, which many New Spaniards still occupied. To reduce the possibility of conflict, in 1806, Spanish Lt. Colonel Simón de Herrera and U.S. General James Wilkinson formed the Neutral Ground Agreement, which called for a demilitarized zone between the Arroyo Hondo and Sabine River

to prevent skirmishes and possible warfare over the disputed area. By the early 1800s, the young United States proved an aggressive competitor in challenging other claimants to the land that would become Texas, especially after technological developments that led to the profitability of cotton in the lower South and in the Gulf Coast region.

KING COTTON, SLAVERY, AND ANGLO-AMERICAN SETTLEMENTS IN TEXAS

The marketability of short-staple cotton—the type of cotton that could be grown and harvested in the Gulf Coast states of the southeastern United States—increased American attempts to acquire additional land in the region. In 1793, Eli Whitney submitted a patent for a cotton gin (short for engine). Workers could load cotton in the top of a box and turn a crank. The crank rotated a series of hooks through wire combs that pulled out seeds, dirt, and plant matter, resulting in cleaner, marketable cotton fibers. The ability to clean short-staple cotton more easily, and the availability of land in the black soil region of the southeastern United States, marked a turning point in the U.S. economy. Still, land and labor were necessary for agricultural profitability, and the increasing demand for land drove the price up for these limited resources.

A Texas Economy Based on Slavery

Prior to the development of modern fertilizers, cotton's significant demand on soil led to larger plantations. Crops needed to be rotated, requiring more land and more enslaved people to work that land. The need for land and more enslaved people added fuel to the quest for new territory (discussed later). As planters became wealthier, they were able to buy more enslaved people to work the land, marginalizing less wealthy and smaller landowners. By 1852, Texan cotton cultivation had produced nearly 30 million pounds of cotton, making it the eighth-largest cotton producer in the United States. The population of enslaved people across the entire U.S. South increased from 700,000 to nearly 4,000,000 between 1790 and 1860. In 1836 Texas had approximately 5,000 enslaved persons in a total population estimated at 38,470. By the census of 1860, Texas had 182,566 enslaved people, accounting for nearly a third (30.2%) of its population, but like the land, enslaved people—a mark of wealth—were concentrated in few hands.

Even on the eve of the Civil War in 1860, 75% of Southern male heads of households owned no enslaved people, and of the 25% of men who were enslavers, half of them owned fewer than five people in bondage. The term *planter* referred to the 10% of enslavers who “owned” more than 20 enslaved people; yet this 10% owned half of all the enslaved people in the South. Although statistically enslavers accounted for a small percentage, there were 400,000 enslavers nationwide on the eve of the Civil War.

Although a minority of the population owned enslaved people, the majority of free White settlers supported the system of slavery, and the slavery economy permeated the region. Enslaved labor in Texas, which produced cotton as well as sugar in the lower Brazos region, contributed to a 600% increase in cotton production in the 1850s.²

As cotton came to play an increasing role in the American economy—accounting for half of the nation's exports—slave holders dominated Southern legislatures and passed laws that protected the institution of slavery. Those who were enslaved could be bought, sold, and even mortgaged. They possessed no legal rights of family or marriage. They could be tried by a jury but could not testify against White people in court. The practice of enslavement promoted the view that Black people were inferior to White people, and most White people in Texas accepted that view.

Everyone in Texas and the South, whether they owned enslaved people or not, depended on the slavery economy. Some benefited directly, such as traders of enslaved people, patrols, overseers, and plantation managers. Others benefited indirectly; clothing manufacturers made clothes especially for enslaved people, ironworkers and forgers made chains and shackles, others leased enslaved people as laborers, while textile companies processed the cotton into linen and clothes, and banks and attorneys profited from the lucrative internal trade in enslaved people, cotton trade, land sales, and mortgages. Even Northern shipping interests benefited from exporting Southern cotton. Economically, cotton became “king,” and along with the business of human labor bondage, King Cotton’s march across the Gulf Coast region was halted by New Spain’s claim on the lands west of the Mississippi.



Workers stand outside the residences on a sugar plantation in the South.

iStock.com/ilbusca

U.S. Expansion Westward

Disputes in the Ohio River Valley and American neutrality during the Napoleonic Wars led to another war between the United States and Great Britain in 1812. Following the War of 1812, the United States gained full control of the Ohio and Mississippi River valleys and began expanding west. In 1818, one of the heroes of the War of 1812, General Andrew Jackson, conducted raids into Spanish Florida that threatened the new peace. The U.S. and Spain then agreed to the Transcontinental (Adams-Onís) Treaty of 1819, which transferred Florida to the United States and established an international boundary between the U.S. and New Spain. Although both Spanish and U.S. authorities hoped that the Transcontinental Treaty would provide a clear boundary, many Americans were unhappy with the treaty line, especially Southern plantation owners who felt the United States should have asked for more territory in present-day Texas as they saw East Texas as fertile land for cotton and other crops.

New Spain grew increasingly concerned about U.S. expansion into the West, fearing that unauthorized settlers were trying to establish claim on Spanish territory. In some cases, explorers were sent into New Spain by the United States, while others initially had contracts with the Spanish government. Still others, however, were clearly trying to take control of East Texas from the Spanish and set up their own empire.

In 1819, largely due to land speculation caused by the desire for more cotton cultivation in the West and the increasing number of immigrants to the United States pushing settlement

westward, the American economy crashed, and many went bankrupt. After the Missouri Compromise in 1820, the U.S. government made it easier for small farmers to buy land in the former Louisiana Territory, but the costs were still prohibitive for many hopeful planters.

The Compromise also restricted enslavers to land south of the 36°30' parallel. Although Spain had claimed the northern region for some 300 years, it had few settlements north of the Rio Grande in present-day Texas and could not control the Apache, and later the Comanche, who raided across the region. In 1820, Moses Austin, in pursuit of new cotton farmland where slavery would be permitted, approached the Spanish governor of Tejas about the possibility of bringing settlers from the United States to northeastern Mexico, south of the Transcontinental Treaty line. The Spanish governor, Antonio María Martínez, at first refused Austin's request because of recent troubles with American **filibusters**, men who launched private invasions into Mexico to seize land in the region, many of whom were seeking to extend the area in which slavery was permitted. However, he eventually relented and granted Austin permission to recruit settlers from the United States to the Brazos River valley of Texas. The opportunity to get land in Texas attracted Southern planters, who were eager to expand their reach, and slavery, into new territories.

From New Spain to Mexico

The Napoleonic Wars (1803–1815) in Europe had led to independence movements in Latin America that drew inspiration from the successful American Revolution a generation earlier. When Napoleon gained control of Spain in 1808, he placed his brother, Joseph Bonaparte, on the Spanish throne (1808–1813). Taking advantage of the chaos in Spain, political forces in New Spain overthrew France's representative, Viceroy José de Iturrigaray. On September 16, 1810 (celebrated today as *Diez y Seis de Septiembre*), Fra. Miguel Hidalgo y Costilla, a Catholic priest, called for independence with a speech known as the *Grito de Dolores*. The stirrings for independence led to revolutionary activity in the region that would become Texas, from both Tejanos and the **Texians** (Anglo settlers from the United States). In Texas, at least two attempted coups against the government were part of the larger revolutionary movement. Other revolts in New Spain sprang from the initial 1810 rebellion and continued until Spanish general Agustín Iturbide and rebel leader Vicente Guerrero agreed to a peace treaty, the Plan of Iguala, on February 24, 1821. The document called for an independent Mexican Empire, and in May 1822 Iturbide was crowned Emperor Agustín I. Within a year, however, facing great resistance, he dissolved the empire and abdicated the throne.

After Iturbide left Mexico, the Mexican congress called a constitutional convention. Not unlike the constitutional debates that marked the drafting of the United States' Constitution, Mexican politics was split into two opposing factions, the Federalists and the Centralists. In 1823, Mexico abolished slavery but allowed it to continue in Tejas. It also made the importation of enslaved people illegal, causing concern among slaveholding White settlers in that region. In October 1824, the Federal Constitution of Mexican States, strongly influenced by the U.S. Constitution, became the basis for the new government. The new constitution created several new political divisions, including one in the new country's northeast: the State of Coahuila y Tejas.

Austin's Settlement

Moses Austin died before he could bring his settlement to fruition. His son, Stephen F. Austin, became an **empresario**, a land agent contracted to bring settlers to the lower Brazos River valley. In 1821, the younger Austin began moving 300 families, known as the Old Three Hundred, into

the area. The settlers agreed to become Catholics, abide by Mexican law, and become Mexican citizens. Not all of these agreements were followed by all settlers.

Austin and the Old Three Hundred were not the only Americans coming into Tejas or other Spanish territory. That same year, American William Becknell established a trade route between St. Louis, Missouri, and the Mexican settlement in Santa Fe. This allowed the first legal trade between the two nations, and the resulting Santa Fe Trail was used extensively by American settlers traveling west.

Under Austin's terms, each settler would receive 640 acres for himself, another 320 acres if he was married, and 160 acres for each child. If he owned enslaved people, he would receive 80 acres for each one. For delivering the land, surveying it, and obtaining the proper title, Austin planned to charge 12 1/2 cents per acre. If a man and his wife settled under Austin's provisions, had two children and five enslaved people, they could expect 1,680 acres of land, costing only \$210 payable by installments (or about \$53,728 today). Early in 1823, during the brief reign of Emperor Agustín I, the Mexican government passed the Imperial Colonization Law of 1823, and Austin's was the only grant approved under that law. The provisions of the Imperial Colonization Law were even more generous than Austin's original plan. Every family received about 177 acres for farming. Ranchers received about 4,430 acres of land. Most of the original settlers received both at a total cost of less than \$35, less than \$900 in today's currency. *Empresarios*, like Austin, would receive almost 67,000 acres of premium land for their services. In August 1824, the new Mexican government formed by the constitution issued the National Colonization Law of 1824. Individual states in the Mexican union were responsible for colonization in their provinces, and so the state of Coahuila y Tejas passed its Colonization Law in 1825, which provided large tracts of land to *empresarios* to bring American settlers to the northern province of Tejas.

Other would-be *empresarios* began applying for colonization grants in hopes of taking advantage of the vast land available in Tejas. Some from outside the United States applied, including at least two Mexican citizens. Ultimately, some 30 *empresario* contracts were awarded, but Stephen F. Austin was the most successful *empresario*, bringing to Tejas some 1,500 families. In 1827, the Constitution of the State of Coahuila y Tejas prohibited slavery and the further introduction of enslaved people into the state. It also declared all children born to enslaved people to be free citizens at birth. Despite this, many settlers continued to rely on enslaved labor. By 1830, Tejas had a population of 7,000 foreign-born and only 3,000 Mexican nationals. The 450 enslaved people recorded in the 1825 census had increased to nearly 5,000 by 1836. The growing settlement began to worry the Mexican government.

Law of April 6, 1830

Although the brief "Fredonian Rebellion" of 1826, in which Stephen Austin and other older settlers rode with Mexican forces against a faction of U.S. settlers in Texas attempting to secede, is sometimes considered the first step in the Texas revolution, it was Mexican President Anastasio Bustamante's decree, the Law of April 6, 1830, that most concerned U.S. settlers in Texas. In 1827, growing suspicious of the U.S. settlers in Texas, the Mexican government had dispatched General Manuel de Mier y Terán to inspect the settlements and the Transcontinental Treaty line. His report on the East Texas settlements in Austin's colony raised alarms as it stated that many were immigrating unchecked with no intention of becoming Mexican citizens and Catholics, as the law required. It also noted the increasing number of enslaved people, despite slavery having been abolished. In response, the Law of April 6, 1830, forbade the importation of enslaved people and restricted further immigration from the United States. This decision frustrated new settlers such as William B. Travis. They were also upset that the government began

building a new customs fort at the mouth of the Trinity River in Trinity Bay, Fort Anahuac. The fort's commander, John Davis Bradburn, a Virginian who had joined the Mexican army, had protected two enslaved people who had sought freedom, causing fear that more might flee to seek refuge in Mexico.

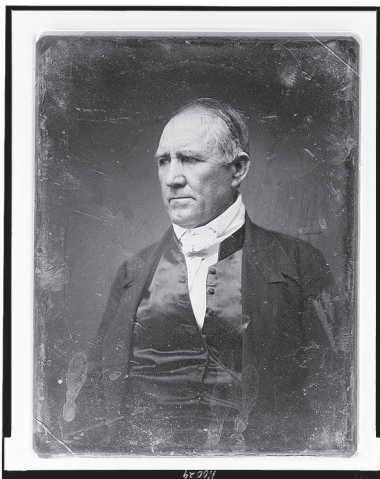
A few months after the Law of April 6, 1830, was passed, Austin expressed his regrets for focusing his recruiting efforts solely on American Southerners and for the number of enslaved people that were brought to the region. He wrote to Thomas F. Leaming in mid-June 1830 that “the idea of seeing such a country as this overrun by a slave population almost makes me weep” because he worried about a large and growing Black population. Austin worried, “the white population will be destroyed some fifty or eighty years hence by the negroes, and that his [the slave owners] daughters will be violated.” Still, Austin defended slavery and won an exemption for his settlement to retain enslaved people by “freeing” them but quickly signing them—most of whom could not read—to 99 years of indentured servitude.³

Pushback against the Law of April 6, 1830, by the Anglo settlers led Mexico to rescind the order and once again turn a blind eye to slavery, but the threat remained clear in enslavers' minds. Although the prohibitions on further American settlement and slavery were eased, conflicts continued. In 1833, General Antonio López de Santa Anna became president of Mexico and instituted a centralized government, reducing the autonomy of the states. U.S. settlers' concerns about protecting slavery combined with Santa Anna's growing centralization of power were matched by Mexico's increasing frustration with U.S. settlers and fears of U.S. expansionism. This combination of political instability and increasing mistrust would eventually ignite the conflict that became known as the Texas Revolution.

Many Tejanos and Texians picked up arms to fight for an independent state free from Santa Anna's rule. Santa Anna sent troops to maintain order, but when Mexican soldiers tried to take back a small cannon that the Mexican government had previously provided to a group of U.S. settlers for the defense of their settlement, the Texians dared the soldiers to “Come and Take It.” The Texian revolutionary force of 300 men marched to San Antonio and forced the Mexican garrison to retreat. In the meantime, Santa Anna instituted constitutional changes that essentially made him a dictator (a development discussed further in Chapter 2). Rebellions sprang up in 12 states across Mexico opposing his actions. Santa Anna moved to put down the largest of the rebellions, in Zacatecas, and then moved troops into Coahuila y Tejas.

Santa Anna and the Alamo

Although armed resistance had begun, politically there was a dispute among the Texan settlers whether to seek independence or simply restore the Mexican Constitution of 1824 that Santa Anna had dismissed. This division was also reflected in the Texian militia. Many wanted to attack further into Mexico in hopes of gaining more land. Sam Houston, a former U.S. general and Tennessee governor, moved to Texas and was soon appointed commander of the Texian Army (and would later serve as president of the Texas Republic and as U.S. senator and governor after annexation). In the 1830s, however, military discipline was low, and troops did not always obey orders from commanders. Despite objections by General Houston and others, in mid-January 1835 troops left Goliad to push farther south into Mexico. At the same time, news of Santa Anna's forces moving north toward Texas caused settlers to flee east. Houston called for Texians to abandon San Antonio and sent James Bowie to destroy the fortifications there so Santa Anna could not use the city as a base. Instead, when Bowie arrived in San Antonio, he decided to occupy it and established his base in the Alamo, an



Sam Houston, first and third president of the Republic of Texas, also served as one of the inaugural senators after Texas became a state.

Mathew Brady; archived in the Library of Congress Web Archives at <https://www.loc.gov/pictures/item/2004663991/>

abandoned mission. A few weeks later, Travis arrived and called for reinforcements from throughout the South. Soon, others reached the Alamo, including the famous Tennessee politician David Crockett.

The Alamo defenders, both Texians and Tejanos, learned Santa Anna had crossed the Rio Grande and was moving toward San Antonio. When the Mexican forces arrived, they laid siege to the Alamo compound. Travis, now in command at the Alamo, sent additional messages for reinforcement. Meanwhile, James Fannin had taken control of the Goliad mission and fortress some 90 miles southeast of San Antonio. On March 2, 1836, the provisional Texian government, meeting in Washington-on-the-Brazos, adopted a declaration of independence, but the Alamo defenders probably never knew about it. Before dawn on March 6, Santa Anna ordered the attack on the Alamo. He commanded a military band to play *El Degüello*, a military tune that signified no quarter would be given. The Battle of the Alamo was brief. Some 200 Tejano and Texian defenders were killed during the failed defense.

Santa Anna remained in San Antonio until the end of the month. News of the defeat reached Houston in Gonzales; he ordered a retreat and began moving troops west toward San Felipe. On March 20, James Fannin, who remained in Goliad, surrendered to Mexican troops. Santa Anna ordered the 300 Texians who had been captured to be executed, despite protests from the Mexican general at Goliad. News of the Goliad Massacre, along with the fall of the Alamo, led to cries of “Remember the Alamo!” and “Remember Goliad!” among the Texians. Texian settlers began fleeing toward Louisiana in the United States for safety. The members of the Texian government, who had been at Washington-on-the-Brazos, moved 70 miles southeast to the Harrisburg settlement on Buffalo Bayou, near present-day Houston. Santa Anna began moving his forces toward Harrisburg in hopes of capturing the Texian government. On the afternoon of April 21, Houston attacked Santa Anna’s camp, launching the Battle of San Jacinto. The Mexican forces were caught off guard and were immediately routed. Many were killed after they surrendered. Santa Anna was captured and promised to recognize the Republic of Texas.



Lorenzo de Zavala was an important diplomat and politician in Mexico before fleeing to Texas. In Texas he participated in the drafting the Constitution of the Republic of Texas, designed the Republic’s flag, and served as the first vice president of the Republic.

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THE TEXAS REPUBLIC

On May 14, 1836, interim president of the Texas Republic David Burnet, a member of Austin’s settlement who had been elected by the new government at Washington-on-the-Brazos, and Santa Anna signed peace treaties at the port of Velasco at the mouth of the Brazos, the temporary capital of the new Republic of Texas. Serving as the Republic’s first vice president was a Tejano, Lorenzo de Zavala, who helped draft the constitution and designed the flag of the Texas Republic. When Texas voters cast their ballots that September 5, the first presidential election was a popularity contest. Burnet had chosen not to run, but Henry Smith, a former provisional governor, put his name on the ballot, as did Stephen Austin. Sam Houston entered the race in mid-August, just weeks before the election, but the hero of San Jacinto won handily. Smith withdrew from the race but received almost 750 votes. Houston defeated Austin with 5,119 votes to 587. Houston served as president of the Republic of Texas from 1836 to 1838 and would serve again from 1841 to 1844.

The New Republic's Pressing Issues

The new republic had several pressing issues. First, in the September 1836 election, voters were asked whether they wanted to join the United States. The results were overwhelmingly in favor of annexation. But Texans also had to consider internal conflict between Texians, Tejanos, and Black residents; conflict with Native American tribes; fears of reprisals from Mexico (which, despite Santa Anna's treaty at Velasco, did not recognize Texas's independence); and, perhaps most important, finances.

Harsh Treatment of Tejanos

Mexican Texans—Tejanos—faced difficulties in adjusting to the new government. Many Tejanos had supported and fought in the Texas Revolution, yet, many settlers associated all Tejanos with Mexicans, and discrimination increased problems between the two groups. Juan N. Seguín, who fought at San Jacinto, is but one example. As mayor of San Antonio, Seguín was falsely accused by White Texans of aiding Mexican troops who invaded the city in 1842. Forced to leave Texas under threat, despite support from former Revolutionary leaders, Seguín later returned and was elected county judge in 1869. Another influential family, the Martín de Leóns, *empresarios* who established a colony near Victoria and La Bahía, were subject to brutal treatment by White settlers and also ended up leaving Texas.

Black People in the Texas Republic

For Black people, life was difficult. Half of enslaved Black people in the South labored on plantations, and another 40% labored on smaller farms working closely and sometimes alongside their owners. A minority of enslaved people held skilled jobs, such as those who worked as blacksmiths, carpenters, masons, or in factories, distilleries, and breweries. Others worked as domestic servants or were hired out as fieldhands or other laborers. In all cases, however, enslaved people were subject to harsh treatment, especially whipping. Most worked from sunup to sundown, lived in poor housing, and suffered from poor nutrition. Half of all children born to enslaved people perished before they reached the age of two, and the adult lifespan of enslaved people was shorter than for White people, two telling indicators of the harsh lives most lived. There were some 30,000 enslaved people in Texas in 1845.

Not all Black people in the South were enslaved, however. Nearly 400 free Black people lived and worked in Texas in 1850, though their freedom was always in peril. Some were former enslaved people who had purchased their freedom and their families' freedom with money they earned and saved. Others were the children of mixed relationships who integrated into their White parent's family. Still others were free Black people from the North who traveled, worked, and lived in the South. Free Black people lived in constant danger of being enslaved. In days before identification forms and photographs, it was easy enough to claim that a free Black person was actually a runaway slave, like New Yorker Solomon Northrop who was abducted in Washington, D.C., and enslaved in Louisiana for 12 years before he was able to escape. After Nat Turner's 1831 Rebellion in Southampton, Virginia, southern lawmakers passed increasingly strict laws on Black people and enslaved people.

For free Black people, the situation grew dim. Despite the fact that some had actively participated in the Texas Revolution, free Black people found their lives limited under the new Texas constitution. By 1840, the Texas Congress had declared that free people of color had two years to leave the new republic or else face enslavement. Some prominent White citizens filed petitions with the Texas Congress on behalf of their Black neighbors. Friends of Joseph Tate, a free Black man who had served in the Texas army, filed a petition in 1839 requesting that Tate

be granted a portion of land, as other veterans of the Revolution were promised, for his service to Texas. Henry Tucker's White neighbors pleaded that the lawmakers allow him to remain in Texas because he was a law-abiding citizen and "should he now be forced to leave the country he would be totally ruined which would be a great hardship as he made a great sacrifice migrating to this country."⁴

If someone wished to free the people they had enslaved, they were met with resistance. Wyly Martin, who had been *alcalde* at San Felipe de Austin and chief justice of Fort Bend County following the Revolution, petitioned Congress to free Peter, a man whom he had enslaved. Peter had used his wagon team to transport supplies and munitions during the Revolution, and later amassed a personal fortune of more than \$16,000 as a teamster. Martin argued that the Texas Senate "should do justice alike to black, yellow and white, without regard to color, and as this slave had done much service to the State during her hours of danger and invasion, he hoped the Senate would act favorably on his case."⁵ Martin's petition to free Peter and have him remain in the Republic caused a stir in the Texas Senate. Some saw no harm in granting Martin's request, but others disagreed. Senator Francis Moore Jr. stated that the request "sweeps from us our strongest ground, in refutation of the doctrine of the abolitionists, for we have always insisted that slaves and free negroes are incapable of self government." He worried that Peter had set a bad example by his good character. "Should we set this slave free with the privilege to remain," he warned, "others might claim and expect like accommodation, and the result would be dissatisfaction, insubordination, and finally insurrection."⁶

In the end the Texas Senate relented. Joseph Tate, Henry Tucker, and other free Black people were allowed to remain; Peter was emancipated and allowed to remain in Texas. The law was eventually rescinded, but it served as a reminder that for free people of color, their freedom was never certain.

Conflict With Native Peoples

After the Republic of Texas was established, settlers began cautiously expanding westward. They encountered Native Americans who attacked and raided White settlements, often killing or taking prisoners for ransom. Sam Houston sought peace treaties with the Native Americans, and traders like the Torrey brothers assisted with Native American relations and financial assistance. Mirabeau Lamar, who succeeded Houston as president of Texas, however, took an aggressive stance against Native Americans and forced many to leave the Republic. Two major battles, against the Cherokee (Battle of the Neches) and the Comanche (Council House Fight), happened during Lamar's administration.

Not all settlements experienced conflict with the Native American population, however. In 1841, the Texas Congress authorized a new, but short-lived, *empresario* system. Before it was discontinued in 1845, a group of German settlers established themselves in Texas. This wave of immigration was led by Baron Otfried Hans Freiherr von Meusebach, who took the Americanized name John Meusebach. Meusebach successfully negotiated with the local Comanche tribe in the Texas Hill Country, and Fredericksburg had few troubles with their Comanche neighbors, a sharp contrast to the Anglo settlements. White Texans were also suspicious of the Germans because many of them opposed slavery.

Causes and Consequences of the U.S.–Mexican War

After the Texas Revolution, the Mexican Congress did not recognize Texas's claim of independence. Nor did they accept the boundaries of the territory it claimed.

An Uneasy “Independence”

For many years, Mexico considered the Republic of Texas to be in a state of rebellion, rejecting the peace treaties Santa Anna signed with Texas on the grounds that Santa Anna had been a prisoner of war at the time of signing, thus invalidating the treaties. Other nations, including the United States, were reluctant to recognize the new republic. France, Belgium, and the Netherlands established diplomatic legations, which were below the level of embassies. Some nations favored an independent Texas, seeing it as a wedge between the expanding United States and Mexican claims in the West. Great Britain opened a trade consulate. The British, who had relinquished claims in the Northwest Territory east of the Mississippi River to the United States, still saw the benefits of fur trade in Canada and held competing claims to the Oregon Territory with Russia and the United States until the 1840s. Likewise, Britain did not want to endanger its relations with Mexico by granting full relations with Texas. Although Texas did establish a legation in London, the British did not have one in Houston or Austin.

The United States also was cautious about recognizing Texas’s independence. President Andrew Jackson appointed Alcé La Branche as a chargé d’affaires (the chief diplomat when there is no ambassador). Although the United States subsequently appointed several other chargés d’affaires, it never appointed an ambassador to Texas.

Manifest Destiny and Slavery

The Texas Republic and its citizens wanted to become part of the United States and sought annexation in 1836, shortly after its formation as a republic. However, that would mean another slaveholding state would join the Union, giving pro-slavery forces more power in Congress. There were also serious questions about the possibility of war with Mexico should the U.S. annex Texas.

John C. Calhoun of South Carolina, Andrew Johnson’s former vice president, was a staunch proponent of annexation in the hopes of expanding the power of slaveholding territories. Other proponents of annexation, such as John L. O’Sullivan, publisher of the *United States Magazine and Democratic Review*, saw acquiring Texas as key to the growth of the country. O’Sullivan claimed that those who opposed the annexation were hampering the “fulfillment of our manifest destiny allocated by Providence for the free development of our yearly multiplying millions.” O’Sullivan popularized the term *manifest destiny*, which became the catchphrase for westward expansion.⁷

On several occasions in the years following the Revolution, Mexico sent forces into Texas, some as far as San Antonio, to assert its claims on the region. As the annexation effort gained steam in the United States, Mexico reluctantly agreed to recognize Texas’s independence in 1845, on the condition that Texas remain independent.

Despite Mexico’s offer, U.S. President John Tyler signed the Joint Resolution for annexation in 1845. Mexican President José Herrera then accepted John Slidell as the American envoy to settle the dispute over Texas annexation. When forces in Mexico overthrew Herrera the following year, however, it appeared that the opportunity for a peaceful resolution had passed. U.S. President James K. Polk ordered troops under General Zachary Taylor to Corpus Christi at the Nueces River, which Mexico marked as the beginning of Texas territory. Meanwhile, Mexican forces lined up along the Rio Grande, which Mexico claimed as its territory and Texas and the United States claimed as Texas territory. Each side waited for the other to cross into the disputed territory between the two rivers.

Taylor’s troops crossed into the disputed area to the Rio Grande. Tensions mounted and shots were fired, although it’s unclear whether Mexican or U.S. troops fired first. President Polk,

however, had already prepared a declaration of war. On May 11, 1846, he told Congress, “Mexico has passed the boundary of the United States, has invaded our territory and shed American blood upon the American soil.” Congress declared war on Mexico, despite opposition and numerous “spot resolutions” that questioned whether the gunfire was actually on U.S. soil.

Treaty of Guadalupe Hidalgo

The U.S.–Mexican War was brief, from May 1846 until September 1847, with most of the fighting happening in Mexico and small skirmishes in New Mexico and California. The Treaty of Guadalupe Hidalgo of February 2, 1848, ended the war and established certain guarantees regarding the citizenship of Mexicans and their property rights. The United States took the land north of the Rio Grande, as well as California and the New Mexico territory, and paid \$15 million to Mexico in return. Article VIII of the treaty provided that Mexican citizens who lived in the territory now under U.S. control “shall be free to continue where they now reside, or to remove at any time to the Mexican Republic,” either keeping or selling their property without any charge. They were allowed a year to “either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States,” and those who remained would automatically become U.S. citizens after the term. Furthermore, Article IX explained that those who remained in the United States should be “admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.”

As far as the U.S. government was concerned, the results of the U.S.–Mexican War raised questions about California and Texas and the expansion of slavery. Texas was a slaveholding state, and California, especially after gold was discovered, did not want slavery. This seemed to resolve some of the issues, with one slaveholding state and one free state, but the size of Texas led some to propose splitting the territory into multiple states. The Compromise of 1850 reduced Texas to near its present size; in return, Texas received \$10 million, which it used to help settle its debt from the Revolution and Republic periods. It also set aside some money for public schools. Still, the issue of slavery would continue to grow for both Texas and the United States.

TEXAS AND THE CIVIL WAR

The massive amount of territory the United States acquired as a result of the U.S.–Mexican War led to almost immediate conflict over how the land would be developed. Texas would be a slaveholding state, but enslaved people were expensive, and even after annexation to the United States, few Texans were themselves enslavers. Depending on the sex, age, and skills of enslaved people, by the 1850s the price for a person in bondage averaged about \$1,500, roughly \$55,000 today. There was also a large Hispanic population scattered throughout the territory the United States acquired, including the Tejano population in Texas.

The Power of the Slaveholding Class

In Mexican Texas, slavery had been relatively uncommon compared to Southern states in the United States. After the U.S.–Mexican War, however, slavery increased. By 1860, the statistics in Texas resembled those across the American South. Slightly more than one of every four Texas families (27%) enslaved people, but only half of those enslaved five or more people. About 10%

of all Southern slave holders were “planters,” enslaving 20 or more people. In Texas, only 54 families enslaved 100 or more people, accounting for less than 0.3% of all enslavers in Texas. Yet, large planters were very powerful economically and politically. They produced 90% of the state’s cotton crop and controlled 60% to 70% of the state’s wealth, and therefore they influenced its political direction. They were determined to maintain slavery.

The issue of slavery led to a division among United States citizens and lawmakers, especially between Southern and Northern states, but also in Western states. It would be a mistake, however, to think that all Southerners approved of slavery and all Northerners opposed slavery. There were great varieties of opinion across the nation in the 1850s. This was especially evident in the debates over the land gained as a result of the war with Mexico. A revised fugitive slave law was also controversial. These issues had come to a head in the Compromise of 1850, which resulted in the admission of California as a free state to offset slaveholding Texas and a negotiated settlement for the return of enslaved people who fled the South across the Ohio River into free states.

Lincoln’s Election and Southern Secession

The presidential vote in the election of 1860 was highly polarized and split among four candidates. Most Southerners voted for John Breckenridge, the Southern Democrat candidate. Meanwhile most Northern voters sided with Lincoln, the Republican candidate; many Southern Democrats pledged to leave the Union if Lincoln was elected. The middle states of Virginia, Kentucky, and Tennessee supported the Constitutional Union representative, John Bell, and the Northern Democratic candidate, Stephen A. Douglas, carried only Missouri. With Lincoln’s victory, the secession movement came to a head. Just a month after the election, on December 20, 1860, South Carolina seceded from the Union. Sam Houston, who had been elected governor in 1859 and supported slavery but opposed secession, ignored requests to call a special session of the state legislature to consider joining the five other states, led by South Carolina, that had left the United States. With no support from the governor, Texas secessionists took matters into their own hands and called upon the counties to send delegates to a pro-secession Special Session. Ninety-two counties sent representatives to Austin on January 28, 1861. In the meantime, Houston convened the legislature. Instead of disavowing the secession convention as Houston hoped, the lawmakers turned the Capitol over to the secessionists and legitimized the proceedings. The delegates heard from representatives of other Southern states, who urged Texas to join them.

The secession vote in Texas shows that there was some opposition to the call to split from the Union. The predominantly German counties of Central Texas, as well as parts of North Texas and the deep East Texas county of Angelina, were opposed to secession. On January 29, a majority of delegates voted to leave the United States but asked for a public referendum on the vote. On February 23, Texans went to the polls and voted 44,317 to 13,020—more than three to one—to leave the United States. Houston called the action illegal, but on March 5 the lawmakers took an oath to the Confederate States of America.

Houston refused to do so. “Fellow-Citizens,” he wrote, “I have refused to recognize this Convention. . . . I believe it guilty of an usurpation.” He declared, “I am ready to lay down my life to maintain the rights and liberties of the people of Texas.” But as far as secession, he continued, “I refuse to take this oath. In the name of the nationality of Texas, which has been betrayed by this Convention, I refuse to take this oath. In the name of the Constitution of Texas, which has been trampled upon, I refuse to take this oath.”⁸ The Convention delegates responded by declaring the office of the governor vacant on March 16 and appointing Lt. Governor Edward Clark as the new governor of Texas. Sam Houston, hero of San Jacinto, president of the Republic of Texas, U.S. Senator, and governor of Texas, retired from public office and died in 1863.

Reasons for Secession

In recent years, some have argued that since Mexico abolished slavery in 1829, slavery was the cause of the Texas Revolution. Others have pointed out, however, that Texas was exempt from the 1829 law. Not all historians agree on how significant a role slavery played leading to the Texas Revolution, but there is more consensus on the role the politics of slavery played in the Civil War. “States’ rights” was a popular explanation for the reason 11 states left the United States in 1861, but what rights were they fighting for? To answer that question, we look at the secessionists’ own explanations.

In 1861, the framers of the Texas **Declaration of Causes**, the state’s official explanation for leaving the Union, pointed out that Texas had been accepted into the Union as a slaveholding state, “maintaining and protecting the institution known as negro slavery—the servitude of the African to the white race within her own limits—a relation that had existed from the first settlement of her wilderness by the white race, and which her people intended should exist in all future time.” The Declaration of Causes argued against the “debasing doctrine of the equality of all men, irrespective of race or color—a doctrine at war with nature, in opposition to the experience of mankind, and in violation of the plainest revelations of the Divine Law.”⁹

Some argue that because most Confederate soldiers were not enslavers, they were not fighting to protect slavery. However, letters from soldiers reveal that most were aware that the politicians that left the union did so to protect slavery and that the war was over the continuation of slavery as an institution. Confederate leaders made that very clear. Alexander Stephens, vice president of the Confederate States of America, stated in his March 1861 “Corner Stone Speech” that the Union “rested upon the assumption of the equality of the races.” Stevens declared, however, “This was an error.” He went on to state, “Our new government is founded upon exactly the opposite idea; its foundations are laid, its corner-stone rests, upon the great truth that the negro is not equal to the white man; that slavery subordination to the superior race is his natural and normal condition.” The Confederacy, he proclaimed, “our new government, is the first, in the history of the world, based upon this great physical, philosophical, and moral truth.”¹⁰

Wartime in Texas

By mid-February 1861, U.S. troops were ordered to leave Texas, and the state began to form volunteer army regiments, not only to fight in the war in the east but also to occupy the now-abandoned forts that protected the western frontier against Native Americans and U.S. troops. Although very few Civil War battles occurred in Texas, volunteers from the Lone Star State fought in every major battle of the war. One of the early attempts to weaken the Confederate States was the blockade of the waters around the Southern states. Galveston, Corpus Christi, and other Texas ports were targeted by the Union Navy. Texans also smuggled cotton to Europe via Mexico. Although Mexico was occupied by the French during the Civil War, Southern cotton made its way to Brownsville and on to a nearby port in Mexico to avoid the U.S. blockade and bring needed revenue into Texas. Confederate forces under General Robert E. Lee surrendered in April 1865, but other Confederate troops continued to fight throughout the summer. The last battle of the Civil War was fought near Brownsville; Confederate soldiers captured U.S. troops at the Battle of Palmito Ranch on May 13, 1865. The last vestiges of the Confederate forces surrendered at Galveston on June 2, 1865. That same day, U.S. General Phil Sheridan took command of Texas.

On June 17, U.S. President Andrew Johnson named Andrew Jackson Hamilton the provisional governor of Texas. Two days later, U.S. General Gordon Granger arrived at Galveston and announced the end of the war and of slavery. African Americans in Texas and the United

States have celebrated this day, known as **Juneteenth**, annually ever since as the day enslaved people in Texas were told they were free. Although Lincoln had announced the Emancipation Proclamation in January 1863, and many enslaved people had been freed as U.S. troops advanced across the Confederate South, many in Texas were still living in bondage in June 1865. Juneteenth celebrations have expanded around the world in recent years to honor the end of slavery and the long and continuing struggle for equality and freedom.

RECONSTRUCTION IN TEXAS

The years following the Civil War during which the nation began to rebuild, from 1865 to 1877, are known as **Reconstruction**. But even before the war ended, efforts to restore the union were already underway. Both President Lincoln and Congress put forth competing plans that would allow Confederate states to rejoin if their voters swore oaths of loyalty to the United States. Before his assassination, Lincoln set a threshold of 10% of voters, while Congress wanted 50% to swear their allegiance and to limit participation in politics to those who could demonstrate continued loyalty to the Union during the war. The United States made it clear that, even in defeat, members of the former Confederacy would need to earn their readmittance. John H. Reagan, Postmaster General of the Confederacy, had been the highest-ranking Texan in the Confederate government. On August 11, 1865, while imprisoned in Boston following the war, he wrote to his fellow Texans and encouraged them to accept defeat, renew their loyalty to the United States, abandon slavery, and recognize the right of Black people to vote. He warned, “unless you agree to this you can neither get back into the Government as a citizen, nor into its courts to assert your claims to slaves or any other species of property. The only wise and safe course for you to pursue is to accept promptly, unreservedly, and in good faith the terms and policy offered, and to go forward in the work of reorganization and restoration to the Union.”¹¹ In the end, however, Texas lawmakers ignored Reagan’s counsel and enacted Black Codes to limit formerly enslaved people, called Freedmen, and their rights.

Texas’s Response to Reconstruction

In January 1866, Texans voted to elect a new state government, and in August the new Texas Legislature met in Austin. It was a conservative group, yet the governor, J. W. Throckmorton, was a moderate. The legislature ignored the Reconstruction process and refused to ratify the Thirteenth Amendment, which abolished slavery. By implementing Black Codes, they aimed to keep Black Texans in a position very similar to slavery. Adding insult to injury, Texas voters elected former Confederates to fill political offices at home and in Washington, D.C. Despite this, President Andrew Johnson declared the Reconstruction process complete in Texas.

All former Confederate states shared Texas’s defiant attitude, and the U.S. Congress took measures to stem the opposition. They refused to seat the Southern congressional delegations, passed the Civil Rights Act of 1866, and overrode President Johnson’s veto of a bill extending the work of the Freedmen’s Bureau, which had been established to aid formerly enslaved people. Later, Congress passed the Fourteenth Amendment to safeguard African Americans’ liberties and keep Confederates from being elected. When President Johnson vigorously opposed Congress in the 1867 midterm elections, it responded with three laws designed to limit the president’s authority.

One of those laws, the Military Reconstruction Act, implemented martial law, putting the U.S. Army in charge of the states. Governor Throckmorton was removed from office, and Elisha M. Peace was named provisional governor. A biracial constitutional convention met from June

1868 to February 1869, resulting in a strong state constitution with a centralized government, desegregated school system, and limited rights for African Americans in Texas. In the elections of 1870, voters elected Republican E. J. Davis governor, and President Grant restored Texas's status on April 16, 1870, readmitting it to the Union as a state.

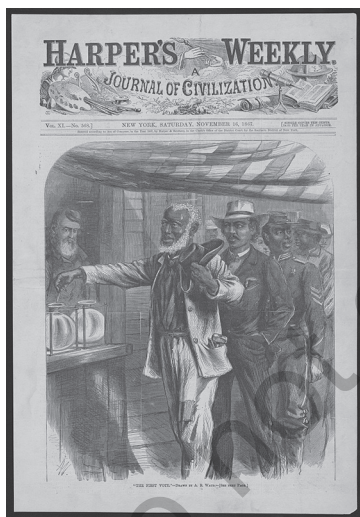
Former Texas Confederates despised the Republican Davis administration. They especially complained about the “Obnoxious Acts” and, particularly, the use of the state militia and state police force, which employed African Americans as soldiers and police officers. Most Texans even opposed spending tax dollars to educate African American children in public schools. Democrats and former Confederates also complained that Davis changed the dates of Texas elections to correspond with federal congressional elections. Davis argued that this would make it easier for voters so that they would only have one election per year, but opponents said it was a way of tricking voters.

In the election of 1873, voters elected Richard Coke as governor by a vote of almost two to one. Davis refused to leave, however, because the Texas Supreme Court decided the election was invalid after a Republican challenge of the vote in Houston. Coke's followers got the keys to the capitol building, but armed forces went in to protect Davis. Other armed men came to Coke's assistance. Davis appealed to President Grant for military assistance, but the president refused. Davis and the Republicans left office, and for most of the next century, Texas, like most Southern states, was dominated by the Democratic Party.

Black Life During Reconstruction

Most historians see the Reconstruction period as a complicated series of successes and failures. For the almost 200,000 people who had been enslaved, it was a transitional period to freedom and full citizenship. *Freedmen*, the term applied to formerly enslaved people, sought to establish families now that marriage was legally recognized, reconnect with family members who had been separated or sold away, and find jobs and homes. In many cases, Black families were able to purchase homes and land from former enslavers or friendly landowners. Some used money they had saved while they were enslaved. Most, however, secured property by selling crops, especially cotton, and splitting the proceeds with the landowner. This practice, “sharecropping,” was a common way for cash-poor people to own land. More than 500 “Freedom colonies” were established in East Texas and other parts of the state where Black land-owning families formed communities separate and independent of White people. From the 1870s to 1910, Black people increased property ownership from 2% of all Texas farmland to 30%. If they were far enough away from White communities and towns, the Freedom colonies elected their own mayors and councils, established police, and set up businesses. Across the former Confederate states, more than 1,500 Black elected officials served their communities after the Civil War. In Texas, 52 Black men served as legislators and constitutional convention delegates. Publicly funded education was one of the lasting legacies of the Reconstruction period. For the first time, Southern states, including Texas, established state-supported public schools, albeit segregated. Freed people eagerly embraced the opportunity education promised. Communities, churches, and families built schools where children attended during the day and parents often attended at night and on weekends.

Despite these accomplishments, violence against African Americans intensified. Numerous gangs of masked or hooded White people terrorized and intimidated Black people. Although popularly referred to as the Ku Klux Klan, there were actually other Klan-like groups in Texas. Some, like the Knights of the White



Congress passed several Reconstruction Acts that allowed Freedmen to participate in the reestablishments of Southern state governments following the Civil War, including allowing Black people to serve in constitutional conventions and vote. The right to vote nationally was guaranteed in the Fifteenth Amendment to the U.S. Constitution in 1870.

A.R. Waud; archived in the Library of Congress Web Archives at <https://www.loc.gov/pictures/item/00651117/>

Camelia and Knights of the Rising Sun, were more organized. Other, smaller gangs also aimed at controlling and attacking African Americans and Republicans.

The Redeemers

The Republican Party remained very small in the South but survived as an opposition party in areas with support of the United States military and Freedmen's votes. Resentment against losing the war, Republican leadership, Black emancipation and citizenship, military enforcement, increased taxation, and other complaints were reflected at the ballot box. The conservative Democrats who won the Texas election of 1872, like other conservative Southern Democrats in the former Confederate states, called themselves **Redeemers**, claiming that they had saved their states from the corrupt rule of Republicans. In reality, the Redeemers hoped to regain political power and reestablish White rule. A national economic crisis, the Panic of 1873, gripped the nation and helped Redeemers gain strength. One of the first issues Texas Redeemers wanted to address was the Constitution of 1869, which they believed created a state government that was too strong, centralized, and costly.

An attempt to change the constitution failed in 1874, so a new convention was called the following year and representatives elected, many of whom were farmers. Texas's new constitution addressed many of the farmers' concerns by limiting the power of the state government, limiting big business, especially railroad corporations, and weakening and segregating the state school system. Although amended many times over the past century and a half, the Texas Constitution of 1876 remains the state's governing system. It is one of the longest in the nation because of numerous amendments. Efforts to revise or streamline the constitution have failed.

The Republican Party, although severely weakened, continued to challenge Democratic control over state politics. Most African American voters belonged to the Republican Party, which had championed abolitionism before the Civil War and was the party of Lincoln. The Democrats, heralded as the party of the Confederacy, used their dominance to restrict the growth of the Republican Party, oppose the National Association for the Advancement of Colored People (NAACP), limit civil rights, and establish the White primary, in which only White people were permitted to vote.

JIM CROW SEGREGATION

Jim Crow laws meant that Black people lived as second-class citizens. They were segregated and pushed to the back of buses, forced to eat at the back of restaurants, and excluded from White-only hotels and clubs. They faced voting restrictions and were kept from running for office by White-only primaries. Even so, in larger communities a Black middle and professional class emerged. Black business owners, educators, ministers, attorneys, and others were able to form in a segregated society, particularly near former freedom towns established after slavery. On a national scope, the Harlem Renaissance highlighted the cultural contributions of jazz and blues music, which originated, in part, in Texas. Texas's best-known jazz and blues musicians included Mance Lipscomb, Blind Lemon Jefferson, and Huddie "Leadbelly" Ledbetter. Blues, Cajun, and jazz in New Orleans and Mississippi spread to Texas Black communities, particularly after World War II, with Texas musicians such as Melvin "Lil Son" Jackson and Clarence "Gatemouth" Brown. The music was picked up by White performers such as Jimmie Rodgers, "the father of Country Music" who took the songs from Black railroad workers who sang as they worked, and, later, Stevie Ray Vaughan and Elvis Presley. There were also great athletes

like Jack Johnson “the Galveston Giant,” the first Black world heavyweight boxing champion (1908–1915). His success upset many in the White boxing community; they were appalled that an African American would be the world champion. The NAACP, which had only recently formed in New York, soon opened a branch in Texas because there were many complaints about the way African Americans were treated there.

Many of the communities that gave rise to the Black middle class are long gone, demolished by “urban renewal” or gentrification, as we will discuss in later chapters. Discrimination made it difficult for Black people to pursue higher education, except in historically Black colleges and universities established under the 1890 land grant of the Second Morrill Act, such as Prairie View A&M. Similarly, discrimination led to difficulty in securing employment or promotions for many Black people throughout the South and in Texas.

Violence and Repression

Throughout the South, African Americans were at risk of violence. In 1916 in Waco, several thousand spectators gathered to lynch a man named Jesse Washington. He was castrated and otherwise mutilated by the crowd, hanged, and finally burned alive. The event drew criticism from across the nation. The incident led many in Texas to begin to speak out about lynching. In Houston the next year, Black soldiers at Camp Logan rioted to protest bad treatment by local police officers and segregation on public transportation, which led to a mutiny that spread through downtown Houston and resulted in attacks on police officers. As a result of the mutiny, the army hanged 19 Black soldiers and sentenced 41 to life imprisonment.

Mexican Americans, or Tejanos, faced similar problems of discrimination and suspicion. In 1901, for instance, a Central Texas farmer named Gregorio Cortez shot and killed a sheriff in self-defense. While law enforcement searched for Cortez, many other Mexican Americans were harassed and killed based on the assumption that they were members of the Cortez gang. Refugees from the 1910 Mexican Revolution fled to Texas, as did political opponents of the Mexican regime who used the Lone Star State as a base.

In 1915, the so-called Plan of San Diego was discovered on a captured Mexican revolutionary in Texas. The plan encouraged African Americans, Mexican Americans, and Native Americans to join together against the United States and to take back the Southwest—Texas, New Mexico, and California—and return it to Mexico where they would live in peace. Two years later, during World War I, the United States intercepted a message from Germany to Mexico stating that if Mexico would side with Germany and attack the United States, Mexico would get back all the land it had lost after the U.S. Mexican War. Fear that Mexicans and Mexican Americans wanted to reclaim the land lost by Mexico in 1848 led to discrimination and lynching in South Texas. Somewhere between 300 and 5,000 Mexicans and Mexican Americans were murdered during this period.

One of the most notorious examples of anti-Mexican violence was the 1918 **Porvenir Massacre**. On January 28, 1918, Texas Rangers, local ranchers, and the U.S. Army arrested 15 men and teenage Mexican Americans and executed them outside the town in retaliation for a raid by Mexican revolutionaries on the Lucas Brite ranch. This led to outrage at the atrocities, which were reported by U.S. Army officials, and a legislative investigation led by state representative José Canales.¹² As a result of the Canales investigation, the Texas Rangers were nearly disbanded, but were instead reorganized. Incidents of discrimination and persecution of Mexicans and Mexican Americans led to the 1929 organization of the League of United Latin American Citizens (LULAC) in an effort to stop the discrimination.

CONCLUSION

Historians and political scientists have long argued that a culture's emphasis on a mythical past limits the political strength of minority groups. In some sense, Texans have a notion of a mythical past. In 1926, the *Dallas Morning News* began publishing a comic strip on the history of Texas, *Texas History Movies*. After nearly 430 installments, having covered events through roughly 1880, on Saturday, June 9, 1928, the editor stated, "The history of Texas has been carried through to the beginning of the modern period and it is here that it must end. This is not to say that the history of Texas ended about the year of 1880. In truth, the story of Texas has just begun. But events subsequent to 1880 do not lend themselves readily to the cartoonist's art. The history continues, just as stirring, just as romantic, but not quite so picturesque."¹³ In *Sleuthing the Alamo*, historian James Crisp notes the portrayal of Texas history in *Texas History Movies* was so much in line with the heroic, conquering image of Anglo culture that Texans wanted to portray about themselves and their past that the series was published by an oil company during World War II as a textbook for Texas schoolchildren and continued to be used in Texas middle-school classrooms for three generations (1928–1959). The comics depict White men as gallant saviors, protecting White women and "civilizing" Native Americans. They all but erase the role of the state's enslaved population. The cartoons were about the "settlement and winning of Texas by Anglo-Americans between 1821 and 1846" and told history in a way that perpetuated the myths and stories of Texas and White male rule.¹⁴

The long-term effect of *Texas History Movies* is significant as the images and stories shaped our identity as a people, socializing Texas schoolchildren in views of Texas that were one-sided. Many of the cartoons would be viewed today as racist and misogynist. These deeply embedded images that we receive from legends, stories, songs, films, and television shows shape a collective, but false, narrative of Texas. Some people hold onto those old narratives because they describe an environment in which their ancestors "tamed" a "hostile" environment, overcame, and became successful. However, the story is told from the view of White settlers. By contrast, questioning the long-cherished stories and revealing a more diverse, complex understanding of the Lone Star past than promoted by Governor Jester in the mid-20th century or comic book texts, Texans of color and other underrepresented groups have begun to challenge the political, economic, and cultural limitations of the past. Other, less powerful people have told different stories throughout the centuries, many ignored or forgotten.

Educational experts have shown that once we learn something it becomes very difficult to change our thinking, even when we are confronted with facts. This is called confirmation bias. When faced with contrary facts, we try to fit the new facts into old beliefs; if they don't work, we reject the new information. One need look no further than the recent imbroglio over Confederate war memorials and statues, with those seeking to maintain the statues and memorials arguing that they are protecting Texas history and its heroes, while those seeking to remove the memorials claiming that it is time to realize that the "heroes" were defending slavery and should not be so honored. Political socialization—how we develop a political identity, opinions, party affiliations, and views of our political institutions and their roles—begin with symbols instilled very early through our families, churches, and schools. In Texas, many schools require students to recite the Flag Pledge each morning: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible." But symbols are found, too, in our school systems with texts that reinforce dominant myths and narratives. For decades there have been battles over what will be included or excluded from public school curricula. The battles

continue today, as we have seen with efforts to pull books or ban discussions of race, slavery, or topics that may be “offensive” to some children and their parents.

Texas identity and the myths surrounding the Texas Republic, the Alamo, and the causes of the Civil War shape who we are today, but they also shape beliefs others have about us. Moreover, who are Texans? Only those born and raised here? The Texas population today is very different than it was in the 1830s. How do the images and myths of the past influence our politics today? Does the view that Mexicans stormed the Alamo influence our attitudes today about Mexican immigrants and the need to build a wall to protect us? And why are so many politicians eager to “forget” about race, slavery, and racism and so eager to ban books or prevent teachers from discussing those topics? Why do some of these same politicians, who argue it is racist to speak about race, draw voting districts for elections that carve up Black and Latino populations to reduce their chances of electing legislators from their communities? Whether we like it or not, how we view our past shapes how we view and act on our present.

What do you think it means to be a Texan? Owning a cowboy hat? Owning a cattle ranch? Growing up on a farm? Going to a rodeo? Driving a truck? Working for the oil or natural gas industry? Going to a high school football game on Friday nights? Or is it something more? And what should it mean for the future of Texas?

Is Texas unique? Has it grown, as Governor Abbott suggests, because of an “economic miracle”? In 2015, Abbott said, “Businesses succeed in Texas because we’ve build a framework that allows free enterprise to flourish. Less government, lower taxes, smarter regulations and right-to-work laws—these are the pro-growth economic policies attracting employers to Texas from states that overtax and over-regulate.”¹⁵ And what are the costs and benefits of such policies for the people of Texas?

Certainly, there is much to be proud of as Texans. The state is growing dramatically in population and diversity. It is creating jobs and opportunities. But there are also disparities in health care, income, housing, and education. We hope as you read this book you will better understand how Texas government functions, how policy is created, and what role you can play in improving our great state.

WHAT CAN YOU DO?

- Ask yourself: What does it mean to be a Texan? Who are those that first come to mind? Who do you include as Texans today?
- Reflect on what you are proudest of about our past. Who are your Texan heroes? How should we celebrate those heroes?
- Read more about the history of Texas. We have many references in this chapter and throughout the book. Pick up some and read them.
- Have discussions with friends and family about Texas, its culture, and its diversity.
- Don’t be afraid to ask questions in the classroom and don’t be afraid of new ideas or differing viewpoints. That is how we learn.

DISCUSSION QUESTIONS

1. Consider the various people and groups who have migrated to Texas since 1800. Discuss how they interacted with Indigenous people. How did their experiences influence their concepts of law and government?
2. How did agriculture, especially cotton, influence the need for land and westward expansion in the early 1800s?
3. When President James K. Polk asked for a declaration of war against Mexico in 1846, he claimed, “American blood was shed on American soil.” His argument was challenged by others at the time. Was his argument correct? What were the immediate results for the United States? What were the long-term results of the U.S.–Mexican War for Mexicans living in the territory?
4. What forces led the Texas Secession Convention to vote to leave the United States? Why did Governor Sam Houston refuse to pledge loyalty to a Confederate government?
5. Following the Civil War, John H. Reagan suggested that Texans needed to allow Black Texans to vote and respect their rights to full citizenship. His advice was largely ignored. What were the long-term effects of segregation and voting suppression?
6. In your view, how do the myths about Texas and its past shape our views about what it means to be a Texan today?

KEY TERMS

Declaration of Causes
 empresario
 filibusters
 Juneteenth
 Porvenir Massacre

Reconstruction
 redeemers
 Tejanos
 Texians

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Associated Press/The Abilene Reporter-News, Joy Lewis

2

TEXAS CONSTITUTION

LEARNING OBJECTIVES

- 2.1 Compare and contrast state constitutions with the U.S. Constitution.
- 2.2 Trace the history of Texas constitutions.
- 2.3 Describe the 1876 Texas Constitution.
- 2.4 Analyze the Texas Bill of Rights.
- 2.5 Describe the ways the constitution changes, both through the amendment process and outside that process.

Today we take for granted that women have certain legal rights, but that has not always been the case. In 1957, attorney Hermine D. Tobolowsky, one of the first three women in Texas admitted to the bar, testified before the Texas State Senate Committee on State Affairs in favor of two laws that would allow married women to obtain control over their property separately from their husbands. As a representative of the Texas Federation of Business and Professional Women, she had been working to identify Texas statutes that discriminated against women. The all-male senate committee listened to Ms. Tobolowsky's testimony with ridicule and condescension. According to Ms. Tobolowsky, the chair of the committee, Wardlow Lane, said, "women don't understand the bill they are sponsoring."¹ After the bill failed to pass out of committee in its original form, Ms. Tobolowsky sent a letter to Senator George Parklane stating, "we know what we want and are going to get it even if we have to change the membership of the Senate to get it."² She then launched a campaign for an equal rights amendment to the state constitution that would guarantee women equal rights under the law.

Though the amendment would not be ratified until 1972, Texas legislators passed many other laws to increase married women's control over their property, the most significant of which was the Matrimonial Property Act of 1967. This act was part of a package of bills proposed by the Texas Bar Association for the purpose of silencing the growing call for an equal rights amendment. The bill equalized spousal rights pertaining to the management and control of community property and gave married women the right to enter into contracts and conduct business without their husband's consent.³

The need for such laws may seem surreal or outlandish by today's standards. Women, both married and single, can open bank accounts, have credit cards, enter contracts, own businesses, and have sole control over their earnings. The idea that a married woman would need written permission from her husband before withdrawing money out of a joint bank account seems absurd. Yet, until Texas and other states passed such acts, married women had few rights under the law. The need for such laws in Texas appears even more incredible when one becomes familiar with the various Texas constitutions. Unlike their counterparts in 41 of the 50 states, married women in Texas have always enjoyed a certain degree of property rights.

The legal principle holding that a woman's legal identity was suspended during marriage comes from the English common law doctrine known as coverture. Upon marriage, a woman's legal rights and obligations were absorbed by her husband. This meant that single women, but not married women, could own property, make contracts in their own name, and acquire wealth.

Despite this, all five of the constitutions Texas has had since joining the United States in 1845 have contained a version of the following statement:

All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property. (Sec. 19, Texas Constitution, 1845)⁴

Texas, after all, was not an English colony and inherited much of its legal structure from Spain and Mexico. The Texas Constitution's provision that women did not automatically hand over control of property acquired before marriage or gifted to them after marriage originated in Spanish civil law. Coupled with this was the legal concept of community property, also passed down from Spain, under which all property acquired during a marriage belongs equally to both spouses. A reading of each of the Texas constitutions demonstrates a long history of protections afforded to women's property rights not held in most other states.

Yet even with these constitutional protections, most married women in Texas had little, if any, control over their community property until the passage of the Marital Property Act in 1967 and other related acts passed in the 1950s. Even though the Spanish and Mexican heritage evident in the Texas constitutions afforded married women some property rights, the state's majority Anglo culture was still heavily influenced by English settlers and English common law.

The two legal systems were often in conflict. Despite the protections laid out in the constitution, Texas judges still relied on the common law practice of coverture when deciding cases concerning women's property rights. So, the constitution became subordinate to tradition and cultural views. Constitutions are influenced by the prevailing culture of the time in which they are written; therefore, they often come into direct conflict with the customs and traditions of changing demographics and times. In this chapter, you will learn more about how each Texas constitution reflects the times in which it was written and how the current constitution, written in 1876, has adapted to or resisted changes in the social and political culture of Texas.

WHAT IS A CONSTITUTION?

A **constitution** is a legal document that sets out the principles of governance. There are two necessary components of every constitution: it (1) creates the political institutions and rules that will govern its citizens and (2) allocates power to those institutions.

A state or country's constitution outlines the rules of the political game. As such, the political institutions and rules it creates will reflect the culture and preferences of the authors who drafted it. The founders of the United States were influenced by classical liberalism, a philosophy that views the government as subordinate to the will of the people. They sought to build checks and balances into the system to prevent tyranny and authoritarianism and to establish a government subordinate to the rule of law. As a result, the U.S. Constitution created three political institutions—a legislature, an executive, and a judiciary—each of which can check and balance the others. The Constitution grants to each of these institutions specific powers: the legislative branch makes the laws, the executive branch enforces the laws, and the judiciary interprets the laws.

Though the United States was the first nation to outline the concept of separation of powers in a written document, the principle was not new. Some scholars trace the idea as far back as the Renaissance. The British government also had a type of separation of powers: Parliament served as

the legislative branch and the king served as the executive. The Declaration of Independence was addressed to King George III because he was the chief executive of Britain, but the laws that the colonists protested at the Boston Tea Party were passed by the British Parliament. In addition, the British had set up governments in each of the colonies consisting of a separate legislature and executive, headed by a governor appointed by the Crown. Therefore, when the constitutions of the various states and the new nation were drafted, they were not creating completely new political institutions but merely copying familiar ones—though having a separate judiciary was new to the colonies. Even many of the protections contained in the Bill of Rights, such as the right to due process, trial by a jury of one's peers, and the right to a speedy trial, were first outlined in the English Magna Carta of 1215.

The actual principles by which a state or country are ruled may or may not coincide with the written constitution, however. For example, the current Texas Constitution limits the governor's executive and legislative powers, making the office of the governor fairly weak. Despite this, as you will learn in Chapter 8, Texas governors have wielded a tremendous amount of influence over the legislative agenda when one party controls all branches of the government, giving the person who holds the office much more power than is described in the text of the constitution. Therefore, on paper, Texas has a weak governor system, but the reality of the governor's strength depends on which party controls the legislature and the remainder of the executive branch, as well as how the person in office exercises power.

A constitution serves as the basic law of the land. It establishes the framework for how the government will be organized and the responsibilities of the government, and it dictates the basic relationship between the government and the people. Whereas the U.S. Constitution defines these relationships between the national government and all citizens of the United States, each state also has a constitution to define these relationships for its residents.

Civil Liberties and Civil Rights

Though constitutions are not required to guarantee certain freedoms and rights to citizens, such guarantees are found in many democratic constitutions. We have both **civil liberties** and **civil rights**. Civil liberties are our freedoms from tyranny by the government and are protected in the Bill of Rights, which makes up the first 10 amendments to the U.S. Constitution. Civil liberties include the right to free speech, the right to privacy, freedom of religion, the right to remain silent in a police interrogation, and the right to a fair trial in court.

Civil rights, on the other hand, are guarantees that the government will protect us from discrimination. Certain civil rights are guaranteed under the U.S. Constitution, the Equal Protection Clause of the Fourteenth Amendment, the Fifteenth Amendment granting African American men the right to vote, and the Nineteenth Amendment expanding voting rights to women.

Each state, including Texas, has its own constitution and its own listing of liberties and rights, and some states define these more broadly than other states or the federal government do. For example, the Texas Constitution's Equal Rights Amendment, which we mentioned at the beginning of the chapter, prohibits discrimination based on gender; the U.S. Constitution has no such provision. Often, it takes many years for rights to be expanded, as we will discuss throughout this book. The Supreme Court has changed its interpretation of the U.S. Constitution based on changing conditions, so it has modified, restricted, or expanded rights based on the composition of the Court and its members' interpretation of the Constitution and legal precedent.

How State Constitutions Differ From the U.S. Constitution

State constitutions differ from the U.S. Constitution in many aspects. Some of these differences reflect the different political values of the framers of the U.S. Constitution and those who drafted

their state constitutions. In 1776, amid the American Revolution, the Continental Congress directed all 13 colonies to draft constitutions creating political institutions based on **popular sovereignty**, the idea that the power of the state rested with the people. Each of these constitutions essentially created a sovereign, self-ruling nation. The next year, the Second Continental Congress drafted the Articles of Confederation, the first constitution of the United States. Though the Articles were not ratified until 1781, under that constitution, each state retained sovereignty. The Articles also prevented the new government from enacting taxation or regulating commerce. The country, at that time, was an assembly of sovereign states. One of the struggles faced by the framers of the U.S. Constitution, drafted in 1787, was to convince these 13 newly formed nations to surrender a portion of their sovereignty and assign it to a strong centralized government. One way to achieve this was to create a system of power-sharing known as federalism, which we will discuss in Chapter 3. In service of this goal, the framers drafted a document that outlined the powers of the federal government in broad terms, leaving most policy decisions to the individual states. Consequently, one of the main differences between state constitutions and the U.S. Constitution is length. The U.S. Constitution is 7,591 words, including amendments. The average state constitution is four times longer. Alabama has the longest constitution at more than 400,000 words. Texas has the second-longest constitution with more than 97,000 words.

While the U.S. Constitution outlines broad powers of the three branches, most state constitutions contain specific policies. Many of these provisions resemble the laws passed by legislatures, but for historical or political reasons they have been upgraded to constitutional law. For example, the current Texas Constitution contains sections on education, property rights, bankruptcy, and even rules governing the creation of some special districts. For instance, in 1959 the constitution had to be amended to allow Hidalgo County to create a hospital district. These constitutional policies found in state constitutions have resulted in the need for multiple amendments. When the special hospital district in Hidalgo was no longer needed, that amendment was repealed by an additional amendment. The current Texas Constitution has been amended 530 times since its adoption in 1887. In contrast, the U.S. Constitution has been amended only 27 times in more than 230 years, and the first 10 of those amendments, the Bill of Rights, were added just four years after the Constitution's ratification in 1787.

An additional important difference between state constitutions and the U.S. Constitution is the quality of impermanence. The current U.S. Constitution was adopted in 1787. Many states, however, have had multiple constitutions, and only six states operate under constitutions drafted before 1850. The average state constitution lasts roughly 70 years.⁵ Georgia, for example, has had 10 constitutions, Louisiana has had 11, and Texas is on its fifth constitution since becoming a state (and it had two others before it joined the United States). The most recent effort to draft a new constitution for Texas was in 1972, but that effort failed.

Constitutions as a Reflection of Political Culture

States are often forced to draft new constitutions due to outside political pressure or necessity. For instance, all member states of the Confederacy rewrote their constitutions upon secession from the United States. These constitutions transferred statehood from the United States to the Confederate States and included sections on slavery. For example, the entirety of Article VIII of the Texas Constitution of 1861 was dedicated to slavery. Section 1 prohibited the legislature from passing laws emancipating enslaved people, and Section 2 prohibited individual slave holders from doing the same. When the Civil War ended, former Confederate states were required to rewrite their constitutions again before being allowed reentry into the Union. After the end of the Reconstruction period, Texas once again drafted a new constitution.

Political culture, which we will consider in more depth in Chapter 4, is defined as the overall set of values and beliefs widely shared within society at any given time. It includes citizens' orientations toward three elements of the political system: political institutions, the policymaking process, and policy outcomes. All constitutions reflect their authors' beliefs about what government institutions should look like and how much control the government should have over its citizens. For example, as discussed earlier, both the U.S. and state constitutions during America's founding reflected a belief in limited government power.

Citizens' Orientation Toward Political Institutions

Orientation toward political institutions is measured by whether citizens view the institutions as legitimate. Do they accept the laws passed by the legislature and rulings of the courts, or do they take to the streets in protest? When a group of people stormed the U.S. Capitol on January 6, 2021, to interfere with the certification of the 2020 presidential election results, that was an indication that some no longer viewed the political institutions in the United States as legitimate. If a majority of citizens no longer view the institutions as legitimate, this can lead to violence, revolution, and the creation of new institutions.

Citizens and the Policymaking Process

When categorizing citizens' level of involvement in the policymaking process, Almond and Verba⁶ listed three political cultures: participant, subject, and parochial.

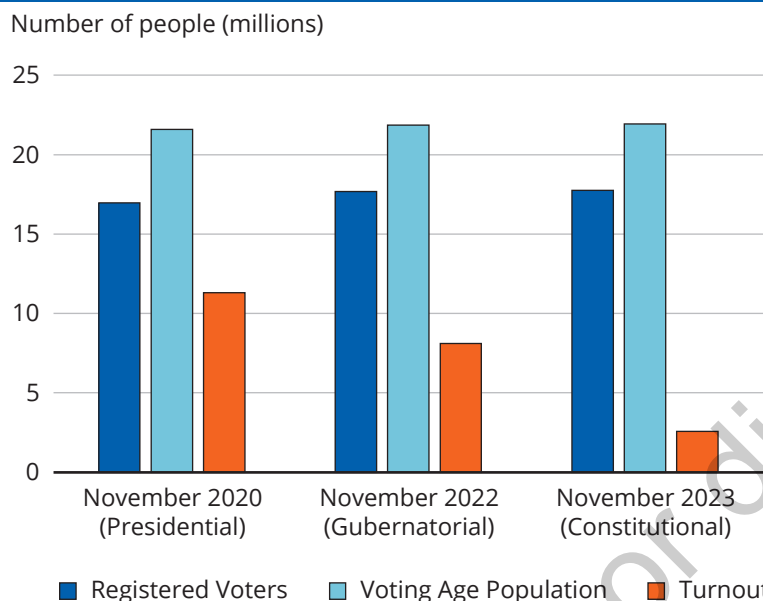
In states with a dominant **participant political culture**, most people believe citizens should take an active role in the policymaking process. Voter turnout in elections is high, and citizens may engage in other activities, such as lobbying the legislature, contacting their representatives, and taking part in protests. The state constitution may even contain an element of direct democracy such as the **public referendum** or **citizen initiative**. Public referendums, currently allowed in 23 states, permit voters to approve or repeal an act of the legislature. Citizen initiatives, currently allowed in 24 states, permit voters to circumvent the legislature and vote directly for policy changes. Texas allows neither.

Subject political cultures are characterized by citizens who passively obey the law and have little to no political participation. One way this is demonstrated is through low voter turnout. Texas may or may not be a "subject political culture"; it ranks 44th out of 50 states in terms of voter turnout. Figure 2.1 shows the voter turnout in Texas for previous elections.

In those societies with **parochial political cultures**, citizens may have little awareness of the central government or its policies. At certain times in U.S. history, different groups have set themselves apart, often due to religious beliefs, and established their own enclaves with their own practices, customs, and laws. However, over time these groups have been fully incorporated into U.S. society and are subject to the laws of the state in which they reside and to the laws of the federal government. There are few, if any, purely parochial states today, although countries with authoritarian regimes stifle dissent, suppress free speech and freedom of the press, and attempt to control the news and information their citizens receive through regulated internet and official news sources, leaving citizens unaware of what their government is doing. These tactics create subjects, not parochial political cultures.

Citizens' Orientation Toward Policy Outcomes

Citizens' orientation toward policy outcomes can be thought of as citizens' beliefs regarding what constitutes a good society and how to best achieve it. How involved should the government be in managing the economy or maintaining moral values? When discussing this aspect

FIGURE 2.1 ■ Texas Voter Turnout in Presidential, Gubernatorial, and Constitutional Elections

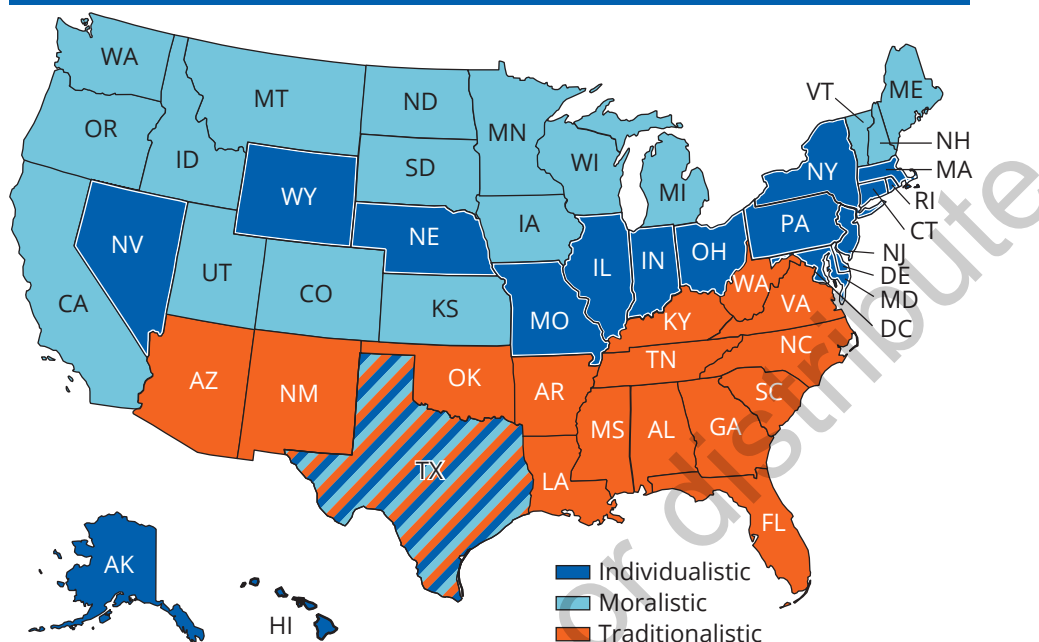
Source: "Turnout and Voter Registration Figures (1970-current)," Texas Secretary of State, accessed April 22, 2024, <https://www.sos.state.tx.us/elections/historical/70-92.shtml>.

of political culture, Daniel Elazar's typology of political culture in the United States may be more helpful than Almond and Verba's typology. Elazar⁷ argues that there are three dominant political cultures in the United States: individualistic, moralistic, and traditionalistic. Citizens in an **individualistic culture** view government and policy as a means to help them pursue individual goals. They expect the government to only provide goods and services that are essential in helping them achieve private goals rather than solve the greater interests of society. One would expect states with a dominant individualistic culture to offer few social programs and rely on tax breaks to stimulate the economy. Citizens in an individualistic culture will participate only if they believe they will receive a direct benefit.

Citizens in a **moralistic culture** view government and policy as means to improve society and promote the general welfare. Hence, they support an expanded role for government and policies that support poor and marginalized citizens. States with a dominant moralistic culture will have generous social programs as well as extensive voting rights.

The **traditionalistic culture** is found predominantly in the South, which has a strong religious tradition and a large fundamentalist Christian population. The traditionalistic culture holds the belief that government and policy are necessary to maintain the existing social order. States with long histories of racial hierarchies enforced by law worked hard to preserve those systems. In traditionalistic cultures, new policies are advanced only if they reinforce the status quo and the beliefs of those in political power. One would expect these states, like individualistic ones, to have few social programs. In addition, states with this dominant culture would be highly resistant to the expansion of voting rights, as it undermines those in power and traditional culture and hierarchies.

Elazar, himself a native Texan, argued that Texas was a combination of individualistic and traditionalistic cultures (see Figure 2.2). As discussed in Chapter 1, many of the myths

FIGURE 2.2 ■ Elazar's Cultural Classification by State

Source: Based on Daniel Elazar, *American Federalism: A View from the States*, 2nd ed. (New York: Crowell, 1972).

surrounding Texas reflect the “rugged individual”—the “lone ranger” who stands up to the “bad guys.” There have been many criticisms of Elazar’s theories of political culture since he published them in 1966. Mainly, his theories were based on patterns of migration, and those patterns no longer hold true today. However, we can see components of both the individualistic and traditionalistic cultures not only in the current policies and politics of Texas but also in the rights or exclusions embedded in the Texas Constitution.

THE HISTORICAL CONSTITUTIONS OF TEXAS

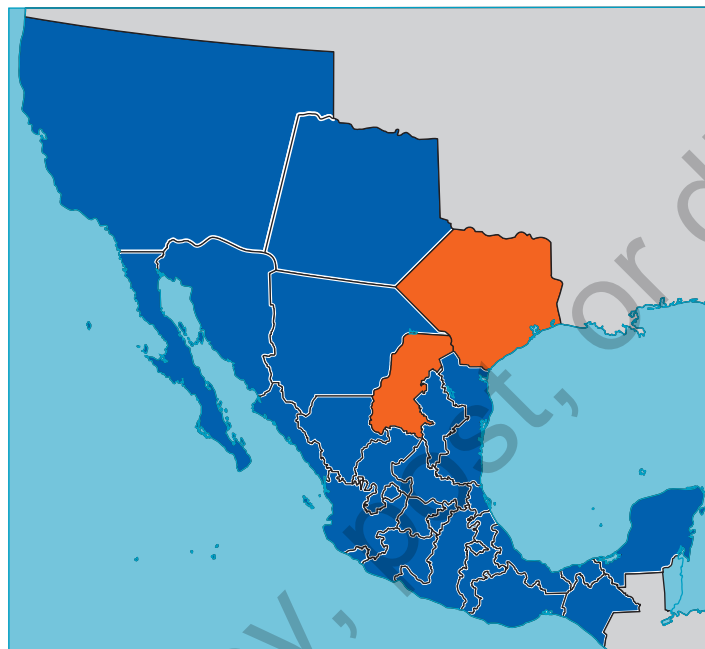
As discussed in Chapter 1, Texas has a diverse and unique past. Texas has been a part of six different sovereign nations and is the only state in the United States that at one time was its own republic. Between 1824 and 1876 Texas was a state of Mexico, its own sovereign nation, a state of the United States, a state of the Confederate States, and then a state of the United States for a second time. Each of these realities corresponds to a different constitution, and each of these constitutions reflects the history and culture of the times.

The Constitution of the State of Coahuila y Tejas (1827)

Texas’s first constitution was as a state under the Mexican Constitution of 1824, *Constitución Federal de los Estados Unidos Mexicanos*. Mexico’s constitution was influenced by both the U.S. Constitution and the Spanish Constitution of 1812. From the United States the Mexican Constitution borrowed the separation of powers as well as a federalist system. Though the basic political structures created by this constitution resembled those of the United States, there were also some substantial differences. First, there was no religious freedom or separation of

church and state, as Catholicism was named the official religion. Also taken from the Spanish Constitution of 1812 were protections for homestead property against bankruptcy (meaning a person's legal residence could not be taken for payment of debts other than delinquent property taxes or debt against the property), community property rights for married women, and a direction to the Congress to "promote education." For settlers living in Texas at the time, the most significant aspect of the new constitution was the merging of the province of Texas with the state of Coahuila for the creation of a new state, Coahuila y Tejas (see Figure 2.3). The Mexican government also directed each state to draft its own constitution.

FIGURE 2.3 ■ Coahuila y Tejas



Source: Milenioscuro, https://en.wikipedia.org/wiki/Coahuila_y_Tejas#/media/File:Coahuila_y_Texas_in_Mexico_1824.svg, licensed under CC BY-SA 4.0 <https://creativecommons.org/licenses/by-sa/4.0>.

Coahuila y Tejas finally adopted a state constitution in 1827. This would be the first written constitution of Texas. As directed by Mexico, the constitution created three separate branches of government: executive, legislative, and judicial. Though the basic political structure mirrored that of the United States, the constitution was more deeply influenced by Mexico. This Spanish and Mexican influence would present some stark differences from the U.S. model. First, it affirmed the Mexican Constitution's establishment of Catholicism as the official religion; it directed the government to financially support the church and prohibited the practice of any religion other than Catholicism. Second, it required schools to be established in all towns. The U.S. Constitution contained no mention of education. Third, the judiciary was able to try cases, but it was not allowed to interpret the law, removing one of the checks on power found in the U.S. Constitution. Most important, and to the chagrin of settlers in Texas from the United States, it prohibited slavery.

Slave-owning Texans found a creative and devious circumvention of the state's prohibition on slavery. Enslaved people were forced to sign contracts with their owners granting them freedom, but in exchange for the "freedom," they and their children would be indentured servants for life.

There were other reasons for Texas settlers from the United States to be unsatisfied, however. The Constitution of Coahuila y Tejas divided the state into three districts. All of Texas comprised one district, Bexar. In the 12-person unicameral state legislature created by the constitution, the Bexar district was only allotted two seats. The remaining 10 seats were allotted to the other two districts, both located in Coahuila. The state of Coahuila y Tejas had a total of 11 governors during this time, all of whom were elected from the Coahuila region as well. Residents of the Bexar district were so unhappy that in 1833 they drew up a new constitution as a separate state from Coahuila. When Stephen F. Austin attempted to deliver the new constitution to the capital in Mexico City, however, he was arrested. This fueled anger among the Texas settlers and fueled their desire for independence.

The Constitution of the Republic of Texas (1836)

In October 1835 Mexico replaced its constitution with a new one known as the Seven Laws (*Las Siete Leyes*). The Seven Laws changed Mexico from a federalist system to a unitary one, with immense powers for the chief executive. Under the sixth law, state legislatures and governors would now be appointed by the president of Mexico, Antonio López de Santa Anna. Other provisions strengthened the powers of the president further by allowing him to dissolve Congress and the Supreme Court. In addition, the president would now be chosen by the lower chamber of Congress. The states in the Federal States of a United Mexico suddenly saw their independence and quasi-sovereignty threatened, and many rebelled, including Texas.

The Constitution of the Republic of Texas, the state's second constitution, was quickly drafted during the Texas Revolution from Mexico in the shadows of the Mexican army's Goliad campaign (recall our discussion in Chapter 1). While Santa Anna's troops marched on the Alamo, the provisional government of Texas met, declared the state's independence, and drafted and approved a constitution within days. The document the revolutionaries produced bore a close resemblance to the U.S. Constitution but left some components of Mexican law intact, such as community property laws, homestead property rights, and a provision directing Congress to provide a system of education, as well as prohibitions against the governor serving a second term. Though the political institutions of separate executive, legislative, and judiciary branches resembled those of the United States, these institutions were also present under Mexico and therefore did not represent a change.

Certain components of Texas's second constitution were not present under the Mexican constitution, however, and reflect the delegates' close affinity with the United States. Whereas the previous constitution declared Catholicism the official religion of the state and prohibited the practice of any other religion, the new constitution guaranteed the freedom of religious practice as well as a separation of church and state: "No preference shall be given by law to any religious denomination or mode of worship over another, but every person shall be permitted to worship God according to the dictates of his own conscience" (Declaration of Rights, Constitution of the Republic of Texas, 1836).⁸

Another component, though not found in the U.S. Constitution, resolved one of the main areas of contention between Mexico and the American settlers in Texas: slavery. The new constitution spelled out exactly where the American settlers stood on their commitment to retaining slavery, stating that "all persons of color who were slaves for life previous to their emigration to Texas, and who are now held in bondage, shall remain in the like state of servitude" and "Congress shall pass no laws to prohibit emigrants from the United States of America from bringing their slaves" nor "shall Congress have power to emancipate slaves" (General Provisions,

Section 9, Constitution of the Republic of Texas, 1836).⁹ Individual slave owners were even prohibited from emancipating their own enslaved workers without the consent of Congress, and free persons of African descent were not permitted to live in Texas without the consent of Congress. The constitution did provide for elections, but women, enslaved people, and Native American men were excluded from the right to participate.

The Constitution of the State of Texas (1845)

Texas officially gained its independence from Mexico in April of 1836 after the Battle of San Jacinto, and Constitution of the Republic of Texas was ratified in September of the same year. However, as discussed in Chapter 1, Texas remained an independent nation for only nine years before formally entering the United States in December 1845. The state was required to draft and adopt a new constitution before annexation took place.

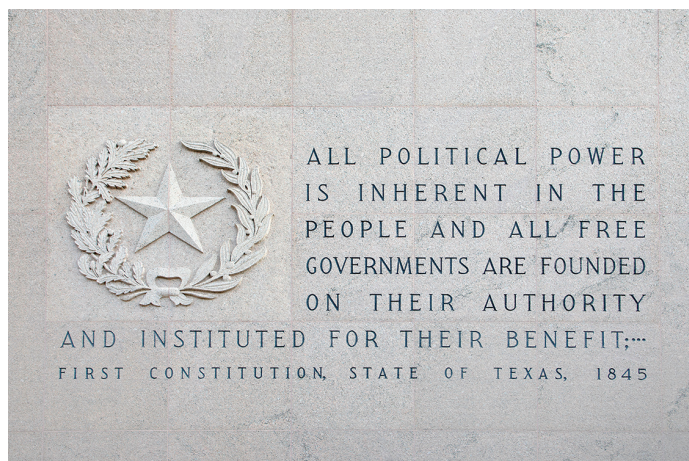
The framers of the 1845 Constitution drew from many sources, including the U.S. Constitution, the Constitution of the Republic of Texas, and even the failed Texas Constitution of 1833 that Austin had attempted to deliver. From Spanish and Mexican law, the constitution drew protections for homestead property from bankruptcy and, as discussed in the introduction to this chapter, provision for the protection of sole and community property of married women. As in the previous constitutions, there was also a stated commitment to education; however, instead of merely directing the legislature to promote education, a Permanent Education Fund was set up for the purpose. Ten percent of all tax revenue was to be set aside for the fund, and the legislature was ordered to establish free schools throughout the state.

The 1845 Constitution created political institutions that mirrored the institutions of the United States. A bicameral legislature was established, with members of the lower chamber serving two-year terms and members of the upper chamber serving four-year terms, with half the chamber up for reelection every two years. This is similar to the U.S. Senate, where members serve six-year terms and one-third are up for reelection every two years. The governor would serve two-year terms but would be ineligible to serve more than four years in any six-year period. This differed from the U.S. Constitution of the time, which did not limit the number of terms the president could serve. (This changed with the passage of the Twenty-second Amendment, which instituted a two-term limit, in 1951.) The Mexico Constitution, however, still limits its presidents to one six-year term.

The Texas Constitution differed from the U.S. Constitution in other ways. Though the governor did have the power to appoint members of the Supreme Court, those members would only serve for six-year terms rather than for life. The governor, unlike the U.S. president, also had the power to remove district court judges and other judges. The idea that judges should be held accountable was further expanded by a constitutional amendment in 1850 that provided for the direct election of all judges.

Like the Constitution of the Republic of Texas, the Constitution of 1845 kept the practice of slavery in place. Once again, the constitution prohibited the legislature from emancipating enslaved people; however, it did allow the legislature to pass laws permitting slave owners to do so. It also allowed laws to be passed prohibiting the mistreatment of enslaved people, though there is no evidence that any such laws were adopted. The constitution also continued to exclude women, African Americans, and Native Americans from participating in elections.

At the time of its adoption, the 1845 Constitution was widely popular, both in Texas and in Washington. Though he had argued against the annexation of Texas while in the Senate, Senator Daniel Webster stated at the time of the Texas Constitution's ratification that it was the "best of all state constitutions." He and others praised its straightforward and simple style.



Texas's 1845 constitution, the state's first as a member of the United States, derived its authority from the people of Texas.

Joerg Hackemann/Alamy Stock Photo

However, like those that preceded it, this constitution of Texas would not last.

Constitutions of the Confederacy (1861) and Reconstruction Period (1869)

Less than 16 years after it became the 28th state in the United States, Texas announced its secession from the Union in February 1861. Texas would officially join the Confederate States of America the following month and would then amend its state constitution to reflect the change.

The Texas Constitution of 1861 is often referred to as the fourth constitution of Texas, but it was not wholly or even mostly new. Instead, it was an amended version of the Constitution of 1845 with minor revisions to reflect the change in allegiance from the United States to the

Confederate States. All references to the United States were replaced with “the Confederate States of America” and current office holders were required to take an oath to the Confederacy. The laws regulating slavery, however, were amended from the 1845 version. Whereas the previous constitution permitted emancipation by slave owners, the new Confederate Texas Constitution expressly prohibited such action, stating, “No citizen, or other person residing in this State, shall have power by deed, or will, to take effect in this State, or out of it, in any manner whatsoever, directly or indirectly, to emancipate his slave or slaves” (Article VII, Section 2, Constitution of Texas, 1861).¹⁰ Hence, the Texas Constitution demonstrated an even stronger commitment to the institution of slavery than before.

The Civil War officially ended four years later in May of 1866. President Andrew Johnson required all former Confederate States to draft new constitutions before being readmitted into the Union. Delegates to the Texas constitutional convention, however, only managed to pass the bare minimum required for readmission. The 1866 Constitution repealed secession, repudiated the debt the state had incurred in the war effort, recognized the supremacy of the U.S. Constitution, and abolished slavery. Though the new constitution did grant formerly enslaved men some rights, such as the right to enter into contracts and own property, it failed to grant them the right to vote or hold public office. In addition, the newly elected Texas legislature refused to ratify the Thirteenth Amendment to the U.S. Constitution, which abolished slavery, or the Fourteenth Amendment, which granted citizenship to African Americans, whether formerly enslaved or not. After the election of 1866, the Republican Party (which fought for abolition and supported Reconstruction) gained an overwhelming majority in Congress and passed the Reconstruction Acts of 1867, which among other provisions, required ex-Confederate states to write new, more satisfactory constitutions.

In 1868–1869 Texas convened yet another constitutional convention in the hopes of drafting a document that would allow them to be accepted back into the United States. During the convention, Republican delegates proposed breaking Texas in half, creating a new state to be known as the State of West Texas. Texas had seceded from the United States during the Civil War, and Republicans now wanted to secede from Texas in the hope of being accepted back into the Union more quickly. The Constitution of West Texas granted full voting rights to formerly enslaved men, but it denied voting rights to ex-Confederate rebels, members of the Ku Klux

Klan, and newspaper editors and ministers who had supported the Confederacy. Though this constitution was never accepted, neither was any other constitution produced at the convention. Therefore, under orders of federal military officers, work from the convention was edited and published as the 1869 Constitution.

The 1869 Constitution went beyond the bare minimum required to rejoin the Union. Though it kept many provisions of the previous constitutions, it did create a more active state government. The legislature was to meet annually, and the governor would once again have the power to appoint judges, as well as most of those in executive branch offices. The 1869 Constitution created a new state agency, the Bureau of Immigration, “to promote and protect” immigration in the state. It also placed the supervision of education under the state and imposed compulsory school attendance laws. But Texans no longer trusted the state government to control education—or anything else—mostly because ex-Confederates were prohibited from seeking or holding political office during Reconstruction and therefore would not be in control of the legislature. The Constitution of 1869 was never fully accepted as legitimate by pro-Confederate Texans, who were hostile to the federal government and laws adopted during Reconstruction.

CONSTITUTION OF 1876: “RETRENCHMENT AND REFORM”

By 1874, Democrats had regained control of the Texas legislature and the governor’s office. Democrats in Texas and the South, at that time, were staunchly opposed to Republican policies, which they saw as diminishing the rule of the White majority in the South. Early in the 1874 legislative session, a joint committee proposed an entirely new constitution as an amendment to the Constitution of 1869. However, because the new constitution had not been drafted by convention, legislators feared it would antagonize the federal government, and they rejected it. The following year, Texans voted on the question of holding a constitutional convention. In August of 1875, the referendum on a constitutional convention was approved, and delegates convened in Austin the following month.

The 90-member delegation to the constitutional convention consisted of only 15 Republicans, 6 of whom were Black, though before the convention ended one of the Black Republican members had resigned and been replaced by a White Democrat. The Democrat delegation consisted mainly of ex-Confederate officers, lawyers, and farmers. Forty members of the Patrons of Husbandry (the Grange), a militant farmers’ organization, composed the largest organized group of delegates and were able to dictate much of the new constitution. The motto of the group, which was established after the global economic recession of the Panic of 1873, was “Retrenchment and Reform.” In reaction to the powerful centralized government created under Reconstruction, the new constitution greatly weakened the powers of all state government branches, particularly the power of the governor. In reaction to the Panic of 1873, which had caused the collapse of many banks, the Grange ensured that the constitution controlled the excesses of big business, mainly banks. The final result was a constitution that, like all previous ones with the exception of those written under duress in 1866 and 1869, reflected the dominant political culture of the times in which it was written. Table 2.1 compares the key components of the 1876 Constitution with those of Texas’s earlier constitutions.

Government Structures and Power of the 1876 Constitution

Several aspects of the 1876 Constitution greatly weakened the power and authority of the state government. The governor’s office was weakened by reducing the term of office from four years

TABLE 2.1 ■ Key Components of the Seven Constitutions of Texas

Constitution	Key Components
Constitution of Coahuila y Tejas (1827)	Established Catholicism as the state's official religion and directed the government to financially support the church. Prohibited the practice of any religion other than Catholicism. Required schools to be established in all towns. No judicial review. Prohibited slavery. Provided homestead exemption from bankruptcy. Community property for married couples.
Constitution of the Republic of Texas (1836)	Guaranteed freedom of religion and separation of church and state. Directed Congress to provide a system of education. Allowed judicial review. Legalized slavery. Provided homestead exemption from bankruptcy. Community property for married couples.
Constitution of the State of Texas (1845)	First constitution as a state in the United States. Mirrored U.S. institutional structure. Set up a permanent education fund to fund education. Kept slavery legal. Provided homestead exemption from bankruptcy. Community property for married couples.
Constitution of 1861	All references to "United States" replaced with "Confederate States." Prohibited slave holders from emancipating enslaved people.
Constitution of 1866	Repealed succession. Recognized the supremacy of the United States. Abolished slavery. Granted free Black men the rights to enter contracts and own property. Failed to grant free Black men the rights to vote or hold office.
Constitution of 1869	Required under the Reconstruction Acts of 1867. Drafted under orders of federal military officers. Created an active state government. Placed supervision of education under state and contained compulsory education laws. Created the Bureau of Immigration to "promote and protect immigration."
Constitution of 1876	Created a plural executive. Provided homestead exemption from bankruptcy. Community property for married couples. Legislature to meet only every other year for 140-day sessions. Set out detailed policy sections on taxation, railroads, and private business. Limited the amount of general revenue funds set aside for education.

to two years and removing the power to appoint judges and other executive branch officials. Instead, all members of the executive branch would be elected by the voters, separately from the governor, creating what is known as the plural executive. This meant the governor of Texas could no longer direct policy by controlling the executive agencies in charge of policy implementation.

The constitution also diluted the power of the Texas legislature. Legislative sessions were changed from annual to biannual (held every other year). The legislature would only meet in odd-numbered years and sessions would last a mere 140 days, and it could not call itself back into session, meaning any state business not concluded within the 140 days of the regular session would have to wait 18 months before being addressed. Legislators would have to rely on the

governor to call a special session of the legislature to complete their work as well as to respond to emergencies. The constitution also prohibited the legislature from running a deficit, unless four-fifths of both chambers agreed to authorize deficit spending. Legislative salaries were slashed as well. Today, Texas still has one of the lowest-paid legislatures, at \$7,200 a year.

To further weaken the legislature, the constitution set out long, detailed sections on public policy, taxation, railroads, and even private corporations. Like previous constitutions, the Constitution of 1876 directed the legislature to support and maintain a free public school system and earmarked money for the Permanent Education Fund. However, whereas the 1845 Constitution stated that “no less than 1/10” of general revenue was to be set aside for education, the 1876 Constitution directed that “no more than 1/4” of funds from general revenue and poll taxes shall be set aside for education. The former set a minimum amount to be spent on education, allowing the legislature more discretion in educational funding, while the latter prevented them from spending more than the maximum amount on public education. In addition, the constitution replaced the state superintendent’s office with a board of education composed of the governor, comptroller, and the secretary of state. It abolished state compulsory school attendance laws and ordered the racial segregation of public schools. It also limited the ability of local districts to raise their own funds. These long, detailed sections on public policy prevent the legislature from enacting policy changes through legislation and instead require changes to be made through constitutional amendments, which is a more difficult and onerous process.

The constitution limited local government control as well. It restricted local authorities’ ability to levy taxes, dictating the amount and type of taxes they could levy. It hindered their ability to run deficits or issue bonds for special projects. It even dictated counties’ government structures, resulting in the least populated county, Loving (population 64 in the 2020 census), having the same number of county commissioners as the state’s most populated county, Harris (population 4.7 million).

How the Constitution Controlled Businesses and Protected Property

The 1876 Constitution contained several provisions to protect individual property from banks, some of which were carried over from the previous constitutions influenced by Spain and Mexico. Once again, citizens were offered homestead protections. Several state constitutions at the time included general provisions against corporations, but the Texas Constitution went a step further and prohibited branch banking. In practical terms, this meant that each bank had to be locally owned and could only have one location. This provision forced owners of banks to live in the same communities as their clients. As the state grew in population, however, this arrangement became unworkable. Even ATMs were constitutionally prohibited in Texas until a constitutional amendment in 1986 removed the prohibition against branch banking.

The Constitution and Voting Rights

Because of the passage of the Fifteenth Amendment to the U.S. Constitution, the delegates at the Texas constitutional convention of 1876 were unable to avoid extending voting rights to Black men. However, they did find other ways to restrict voting in the constitution. In the section on suffrage, the document listed the following people who were not allowed to vote: persons under the age of 21, “idiots and lunatics,” indigent citizens who are supported by the county, people convicted of felonies, and “all soldiers, marines and seamen, employed in the service of the army or navy of the United States” (Article VII, Section 1, Texas Constitution, 1876). The term “idiots and lunatics” was the medical definition used at the time for people who were

mentally incompetent and under the care of the state mental hospital. The voter disqualification for members of the military is odd by today's standards. However, remember that under the Reconstruction Acts, soldiers in the Confederacy were prohibited from running or holding political office. Stripping Union soldiers of their suffrage rights may have been a form of pay-back, as those in the armed forces might also be likely to vote for reforms and elect politicians who would extend voting rights for African Americans.

The constitution also provided for precinct voting and a poll tax. Precinct voting requires citizens to vote at a specific polling place based on where they live, rather than anywhere in their home county. In larger townships a tax assessor–collector was to be chosen to collect the poll tax; in smaller communities, the sheriff would collect it. Though the constitution set forth a purpose for the poll tax (it was supposed to fund education) and a means to collect it, paying the tax of one dollar was not required to vote, according to the text of the constitution. Oddly enough, the constitution also prohibited any registration of voters. However, voter registration requirements and the requirement to pay a poll tax to register would be set by the legislature, in the Texas Statute. Local officials would use both the poll tax and voter registration rules to prevent minorities from voting. You will read more about the struggle for suffrage among people of color in Chapter 5.

The Complexity of the Texas Constitution

Whereas the 1845 Constitution had been praised for its straightforward and succinct form, the Constitution of 1876 is long and overly complicated. At the time of its passage, it contained 17 Articles and 289 sections. Since its adoption, 225 new sections have been added; 66 of the original sections as well as 52 of the added sections have been removed. Currently, there are 396 sections in the Texas Constitution, which makes it difficult to be familiar with all its provisions. In 2019, Bill McCleod, who had just been elected County Court Judge in Harris County, unintentionally resigned from his post when he filed paperwork stating his intention of running for chief justice of the Texas Supreme Court in the next election. In doing so he triggered Article XVI, Section 65 of the constitution, which states that anyone holding certain county positions, including judgeships, automatically resigns from their position when they announce their candidacy for a different office.¹¹ Article XVI of the Texas Constitution has 73 sections and is 26 pages long.

THE TEXAS BILL OF RIGHTS

Though not a necessary component of a constitution, most democratic constitutions contain a list of guarantees to their citizens collectively known as a **bill of rights**. These guarantees in the U.S. Constitution were first proposed as 12 amendments during the first session of Congress in 1789. Of the 12 proposals, 10 were ratified in 1791 and are now referred to as “the Bill of Rights.” All 50 state constitutions also include a bill of rights, but unlike the U.S. Constitution where they are included as amendments, they usually appear at the beginning of the document. In the Texas Constitution of 1876, they appear in Article I. Originally there were 29 sections in the Texas Bill of Rights, but since 1876 Texans have added five additional rights and amended others.

The Texas Bill of Rights contains many of the same guarantees found in the national Bill of Rights, such as freedom of speech, freedom of religion, right to a trial by jury, right to bear arms, and protections against unreasonable searches and seizures. However, there is an important difference in the way the rights are stated. The U.S. Constitution's Bill of Rights limits actions taken by the government; for instance, the First Amendment prohibits the government from

making any law that abridges the freedom of speech. The Texas Constitution's Bill of Rights, on the other hand, lists in great detail the rights the government must protect.

The rights around religion are a good example. The U.S. Constitution states: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." This appears in the First Amendment, along with several other rights (freedom of speech, freedom of the press, right to assemble, and right to petition the government). The Texas Bill of Rights contains four sections on religion alone. One of these sections states,

All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship. (Article I, Section 6, Texas Constitution, 1876)¹²

The phrase "no human authority ought . . . to control or interfere with the rights of conscience in the matters of religion" is a much stronger statement than "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." As a result, parents have been able to claim a religious "right of conscience" to circumvent vaccination requirements for children attending school.

The Texas Bill of Rights also includes several provisions and rights not found in the U.S. Constitution. The Sixth Amendment to the U.S. Constitution guarantees a trial by jury for all federal criminal prosecutions, while in Texas, citizens enjoy a trial by jury for both civil and criminal trials. For example, one can request a trial by jury for a speeding ticket or even for a divorce hearing. There are also two explicit guarantees of equal rights that are not present in the U.S. Constitution. Section 3 declares, "All free men, when they form a social compact, have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services." In 1972, citizens added an amendment to this clause, "Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin."

Since the constitution's adoption, other rights have been added to the document as well. Section 30, adopted in 1989, outlines the rights of victims of crimes, including the right to notification of criminal proceedings, convictions, sentences, and imprisonment. Such victims also have the right to "be treated with fairness and respect throughout the criminal justice process" and a right to receive restitution. The restitution is paid out of the victims' fund set up by the legislature. After the prosecution, defendants are often ordered to pay into the fund as a part of their sentence. In 1997, Section 31 of the Texas Bill of Rights was adopted to ensure the proper management of this fund. Other rights guaranteed to all Texans include the right to public access and



In Texas, protests against COVID-19 vaccine requirements were often justified by claims of religious freedom.

SIPA USA/Alamy Stock Photo

use of public beaches (Section 33) and a right to hunt and fish (Section 34). In 2023, Section 36 was adopted, guaranteeing a right to farm and ranch.

CONSTITUTIONAL CHANGE

The Texas Constitution has changed continually over the century and a half of its existence. Those changes have come through the formal process of amending the text but also through less formal means.

Constitutional Change Through Amendment

As of 2023, the Texas Constitution has been amended 530 times. A **constitutional amendment** is a formal, written modification to the governing document. Most of these amendments were intended to help the government operate more efficiently and responsively. Though initially the constitution was amended infrequently, the pace has steadily increased. Texas now averages nine proposed amendments and six adoptions every two-year legislative cycle. Very few sections of the document have remained unchanged by amendment. Earlier we discussed how the U.S. Constitution outlines broad powers of the government, while state constitutions are more specific and even include sections on policy. This policy specificity is one of the reasons why the Texas Constitution is amended so frequently.

For an amendment to be ratified, it must first gain the support of two-thirds of each chamber in the legislature in the form of a joint resolution. This requires 100 House members and 21 members of the Senate to vote in favor of the amendment. Once the proposed amendment is passed by the legislature, it is submitted to voters; if a simple majority votes in favor, the amendment is approved. It generally takes at least two years from the time of the initial proposal to the approval or rejection of the amendment.

In November 2023, Texas voters approved 13 of the 14 proposed amendments on the ballot. Among the amendments passed were several relating to property taxes and a prohibition against a state income tax. Voters also approved specific funds to improve state parks, improve the electric power grid, and expand access to broadband. Several of the amendments were needed to address issues imposed by the specificity of the constitution itself. For example, Proposition 5 was passed so that money from the Texas University Fund could be allocated to multiple universities. Before the amendment, the Texas University Fund could only be used to support universities in the Texas A&M and University of Texas systems. Proposition 9 needed to be passed before the legislature could authorize a cost-of-living adjustment to the pensions of retired teachers. Proposition 12 was necessary before Galveston County could abolish the office of county treasurer.

Amendments Often Adopted by Few Voters

One might think that because voters must approve each constitutional amendment, the changes must represent the will of the people. Indeed, most amendments pass with at least 60% support of the voters, some with as much as 80%. This appearance of overwhelming support hides an important fact, however. Votes on constitutional amendments usually occur during a **special election**, which is an election called for a specific purpose and which therefore is not necessarily held on Election Day in November. For example, in 2022 the legislature scheduled a special election on constitutional amendments for a Saturday in May. This has the effect of depressing voter turnout. The number of voters participating in special elections is considerably lower than during presidential or even midterm congressional elections. In Texas, the voter turnout during

special elections averages around 8.5% of registered voters. When an amendment passes with 60% approval, that works out to just over 5% of registered voters marking a ballot in favor of the change. And voters who participate in these special elections differ demographically and ideologically from voters in regular elections. They are older, more likely to be White, and more conservative than the general population, all registered voters, and even those who vote in major elections. However, in the 2023 special election, voter turnout was 14.4%. According to the Texas secretary of state, this was the highest turnout in a special election since 2005. There were wide variations in voter turnout, however. For example, Duval County had a voter turnout of 5.4%, while neighboring McMullen County had a turnout of 18.96%.

Constitutional Change Through Practice

Amendments are not the only way the constitution has changed since its ratification. Constitutions can change a great deal through practice, as well. The framers of the U.S. Constitution gave Congress alone the authority to declare war, for instance, yet Congress has only declared war five times throughout the history of the United States. In most cases the United States has entered wars and military intervention by executive action. Each time a president acts outside of their stated constitutional authority, and Congress does nothing in response, presidential power is expanded—without a constitutional amendment.

Because the Texas Constitution is highly detailed and specific, there is less room for change through practice than in the U.S. Constitution, but it does occur. The office of lieutenant governor of Texas and the vice president of the United States are given remarkably similar powers in the Texas and U.S. Constitutions. For example, each has the responsibility of serving as president of the Senate. In the U.S. Senate, however, this has meant the vice president presides only over certain functions, such as the certification of the electoral college vote or casting the decisive vote in a tie. The day-to-day business of the Senate is presided over by the Senate majority leader, who is elected by the sitting senators. In Texas, however, the role of the lieutenant governor looks much more like that of the U.S. Senate majority leader. The lieutenant governor determines committee assignments and controls the legislative calendar, effectively deciding which bills receive a vote. Many have argued that this important legislative role makes the lieutenant governor the most powerful elected office in Texas. Vice presidents of the United States, by contrast, are often viewed as weak, lacking any real role in policymaking. This difference has resulted not from constitutional amendment but from years of tradition and practice.

Constitutional Change Through Judicial Interpretation

Constitutional change through judicial interpretation is quite familiar at the national level. The U.S. Supreme Court has used its role as the interpreter of the Constitution to overturn state school segregation laws, expand voting rights, expand the rights of marriage, expand rights of privacy, and grant rights to the accused in criminal cases, to name a few. Because of the long and detailed sections on policy in the Texas Constitution, however, the Texas courts have less discretion in interpreting the law and have a diminished role as policy actors when compared to the U.S. Supreme Court (see Chapter 9).

There have been instances, however, especially in education finance, when Texas courts have taken an active role. Article VII, Section 1 of the Texas Constitution states, “it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.” Despite this constitutional directive, the bulk of educational financing in Texas comes from local property taxes. Because of this, school

districts in wealthy neighborhoods can raise a significant amount of revenue with relatively low tax rates. The end result is Texas is divided into wealthy school districts that can provide more resources for their students and poor districts that struggle to meet their basic needs.

In the 1980s more than 60 poor school districts sued the state for inadequate funding. In 1989 the Texas Supreme Court ruled in *Edgewood v. Kirby* that the state's method of school



Students and parents of Edgewood School District in San Antonio protests for equal education. Their efforts resulted in changes to the state's educational finance system.

Associated Press/Austin-American Statesman, Tom Lankes

finance violated the state constitution and failed to treat all students equally. The court ordered the legislature to develop a new education finance system to ensure that school districts with roughly the same tax rate would be guaranteed roughly the same amount of revenue. The legislature responded with a plan that forces wealthier school districts to send money to the state for redistribution to the poorer districts. This set off a cascade of lawsuits that we will discuss at length in Chapter 11. Ultimately, however, through the interpretation of the courts, the constitutional directive of an “an efficient system of public schools” has come to mean a more “equitable” system of public schools.

Constitutional Change Through Federal Government Intervention

Though the Texas Constitution restrains the authority of Texas courts, the authority and scope of the federal government is not subject to similar restrictions. The U.S. Constitution is the “supreme law of the land,” and hence, parts of the Texas Constitution have been nullified by U.S. Supreme Court decisions. For example, Section 32 of the Texas Bill of Rights states, “Marriage in this state shall consist only of the union of one man and one woman.” This amendment was



Advocates for marriage equality celebrate the landmark Supreme Court decision legalizing same-sex marriage on the steps of the Texas State Capitol building, a ruling that overturned the Texas Constitution's ban on such unions.

Associated Press/Jack Plunkett/AP Images for Human Rights Campaign

ratified in 2005 with 76% of the vote in favor and with a near 18% voter turnout—unusually high for a special election for a constitutional amendment. Though the provision still appears in the Texas Constitution, it was nullified by the 2015 Supreme Court decision in *Obergefell v. Hodges*. In that landmark civil rights case, the Supreme Court ruled that “the fundamental right to marry is guaranteed to same-sex couples by both the due process clause and the equal protection clause of the Fourteenth Amendment to the U.S. Constitution” (*Obergefell v. Hodges*, 576 U.S. 644, 2015). Thus, despite the constitutional amendment in the Texas Constitution banning such unions, same-sex couples have had a right to marry in Texas since the summer of 2015.

CONCLUSION

We began this chapter by discussing the testimony of Hermine D. Tobolowsky to the Texas State Senate. She was laughed at by the men of the Senate because she dared to believe that women should be able to own and control property separate from their husbands. Despite the Texas Constitution's protection of women's rights in this area, judges in Texas denied married women control of their money and property; this is an example of constitutional change through judicial interpretation. Left unsatisfied by the Texas legislature, Ms. Tobolowsky spearheaded a movement to add an equal rights amendment to the constitution. Once the amendment was ratified by Texas voters, women finally had sole control over their individual property and an equal share of control over their community property, thus bringing the constitution in line with the culture of the day.

Yet, if the constitution already granted women property rights, why was the Equal Rights Amendment necessary? As discussed in the chapter, constitutions create the political institutions and set down the rules by which a people are governed. They also reflect the culture and times in which they were written and borrow from previous governing documents. The current constitution of Texas, originally written in 1876, reflected the fear of big government and big business that followed the end of the Civil War and Reconstruction and the first major stock market crash in the United States. But it also borrowed from the earlier constitutions of Texas, including its constitution as a state of Mexico. Women's property rights came from the Spanish and Mexican tradition, not the English tradition of common law. Thus, those non-English components of the constitution were mainly ignored by judges and businesses in Texas.

One could argue that other sections of the Texas Bill of Rights are ignored as well. For example, one of the original rights states that “no preference shall ever be given by law to any religious society,” yet some argue that the Texas legislature did just that when they passed strict anti-abortion laws, placing the religious preferences of some over the reproductive rights of women and even the religious rights of others. The National Council of Jewish Women publicly supported the U.S. Department of Justice's lawsuit against Texas's abortion ban, stating the Jewish faith views abortion as essential health care. When Texas added an amendment to its constitution in 2005 banning same-sex marriage, was the state not in violation of the original freedom of religion clause by codifying a religious preference belief into the constitution? If not for the Supreme Court decision in *Obergefell*, Texas would have required an additional constitutional amendment before marriage equality in Texas was achieved.

WHAT CAN YOU DO?

- Vote in constitutional amendment special elections. Remember these elections are usually held when there are no candidates on the ballot, and voter turnout is always far below turnout in gubernatorial and presidential elections. If you'd like to see how many voters turned out in your county in the most recent special election, you can visit <https://results.texas-election.com/>.
- Write to your legislative representative and suggest amendments to the Texas Constitution. Remember, amendments must be passed by the legislature before they go to the public for ratification.

- Familiarize yourself with the Texas Bill of Rights and hold your representatives and the courts accountable for its enforcement. You may have rights you are unaware of. Like the women in our opener, you may have constitutional rights that are being ignored.
- Join a group of like-minded individuals and challenge the Texas Constitution in federal court. If it had not been for the challenge by Obergefell and the Supreme Court's decision in the case, Texas would likely still bar same-sex marriage.

AN EXERCISE IN DEVELOPING YOUR OWN CONSTITUTION

In his book *The Principles of Constitutional Design*, political scientist and theorist Donald Lutz¹³ outlines eight principles of sound constitutional design. The eighth principle reads, “A Constitution Rests not only on the History and Present Circumstances of a People but also on Probable Future Developments.” The preceding sections of this chapter have demonstrated the link between the constitutions of Texas and the people's incorporation of history, culture, and reactions to changing circumstances. It cannot be said, however, that the Constitution of 1876 considered the ability to adapt to future peoples and demands.

What would you do differently? If you were given the opportunity to draft a new constitution for Texas, what changes would you make? Using some of Lutz's eight principles of constitutional design for guidance, these are the things you might consider.

1. **Match the constitution to the people.** How will you ensure that your constitution represents the view of those previously left out? Should there be a public initiative option that allows citizens a direct method of changing the constitution or public policy?
2. **The ideal political system will not work on earth.** It is important to design political institutions that will work for the most people possible, while realizing it will never work for everyone. It is generally good to start with existing political institutions and make changes rather than creating totally new ones. For example, the United States has a long tradition of separation of political branches of government, unlike most European countries that rely on parliamentary systems with no separation of powers.
3. **Political power is an unavoidable danger that must be understood and faced if the design is to succeed.** What will you do to protect against political corruption? Is a separation of power alone enough to protect against political abuse? The current Texas Constitution has multiple provisions to protect against corruption—short terms, separation of power, and rules of conduct once in office—and yet, Attorney General Ken Paxton has been under indictment for years, with no repercussions. Though he was impeached by the House in 2023, the Texas Senate refused to convict; thus, he is still in office. Should the constitution contain a provision making it easier to oust corrupt officials from office? If so, how should such a measure be framed? What about term limits (which limit the number of terms an elected official can serve)? Should they be pursued?
4. **Distribution of power.** How will power be distributed between the different branches of government? What type of limits should be placed on the governmental power in Austin? How will power be shared between the state and local governments? Should counties and municipalities be able to make their own regulations to suit the needs of their constituents? Should there be local control in certain policy areas, such as environmental policy or in the case of a health or weather emergency?

5. **A constitution must be easily adaptable for future developments.** How will you ensure that the constitution is easy to change or even be replaced in the future? What does the amendment process look like? What about a way to call for a constitutional convention? Is there a way to give the courts more ability to change policy through interpretation?

There is no need for your constitution to be long or overly detailed. The United States has the longest surviving written constitution in the world. At just over 7,000 words, it is so brief that you can carry a copy of it in your pocket. It is important, however, that the constitution considers all the various groups of people that it will represent, so you want to make your institutions as inclusive as possible. A good place to start your constitutional project is to study other constitutions. You can find constitutions from around the world at <https://www.constituteproject.org/>. Remember, no one writes a constitution completely from scratch. The framers of the U.S. Constitution relied on existing political institutions from the colonies. Texas has copied components of other constitutions in each of theirs.

DISCUSSION QUESTIONS

1. In what ways do you think the current Texas Constitution reflects the culture of those who wrote it in 1876?
2. What are the main differences and similarities between all seven Texas constitutions?
3. In what ways did the 1876 Constitution try to restrict voting?
4. Looking over the freedom of religion section in the Texas Bill of Rights, do you think it provides more or less protection for religions than the United States Bill of Rights? Why?
5. What impact does low voter turnout have on constitutional amendment elections? Do you think it matters who votes in these elections?

KEY TERMS

bill of rights
 citizen initiative
 civil liberties
 civil rights
 constitutional amendment
 constitution
 individualistic culture
 moralistic culture

parochial political culture
 participant political culture
 popular sovereignty
 public referendum
 special election
 subject political culture
 traditionalistic culture