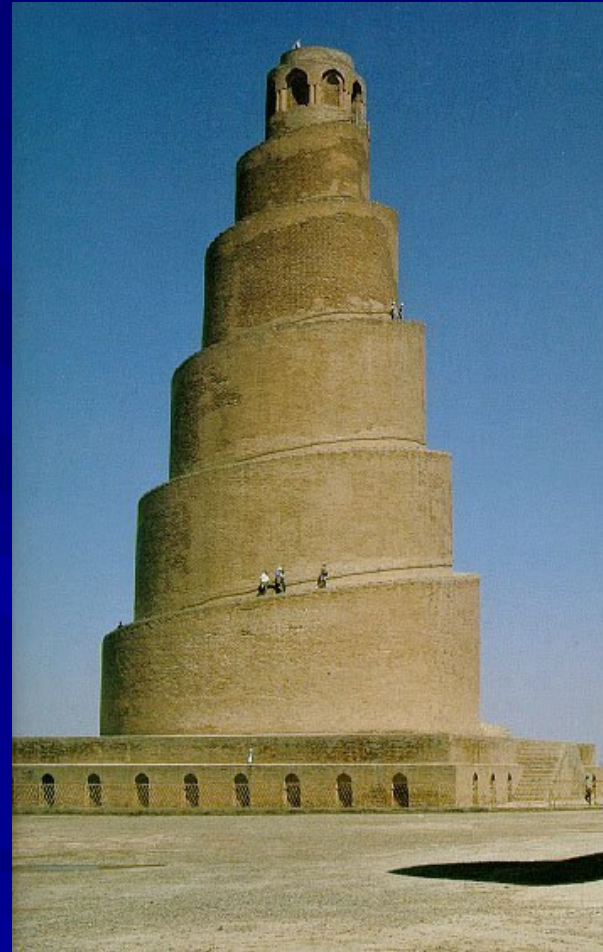


Constitutional Democracy and the New Iraq

Building Democracy in the Land of Civilization

Prepared by Dr. Tom G. Palmer
Cato Institute
tpalmer@cato.org



Your Future: Iraq's Future



Basic Principles of Constitutional Democracy

No power is above the law

All are equal before the law.

The people delegate power.

The rights of the people are constitutionally protected.

An effective constitution is like the architecture of a well built house that must last for many generations.



The Oldest Human Story Was Written in Iraq: Absolute Power = Absolute Danger

“Powerful, superb, knowledgeable and expert, Gilgamesh would not leave the young girls alone, the daughters of warriors, the brides of young men. The gods often heard their complaints.”

- --Epic of Gilgamesh



Enkidu Came Forth to Challenge Powerful Gilgamesh – Power Checks Power

“And for Godlike
Gilgamesh an equal
match was found.
Enkidu blocked his
access at the door of
the father-in-law’s
house. He would not
allow Gilgamesh to
enter.”



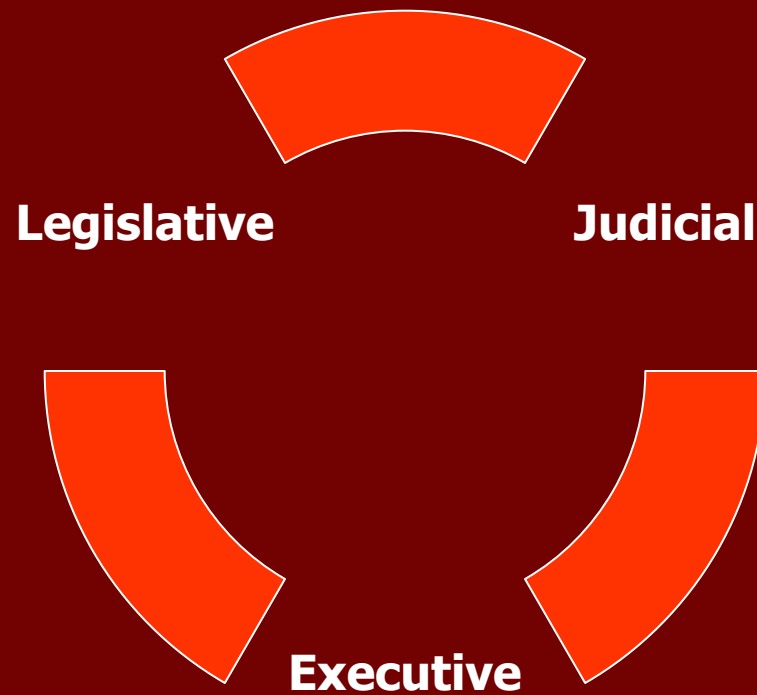
No power is absolute or above the law.

- Rights and powers derive from the people, who delegate some powers to government.



Government's Powers are Separated and Checked

No single authority is supreme above the others. The executive authority is not supreme above the other branches. In addition, most large democracies divide power among the national and the local authorities.



The Judiciary is independent

The judiciary is independent, respected, and the only earthly legal authority that can decide the guilt of someone charged with a crime.



All are equal before the law

The basic law is
the same for
everyone and
everyone is
equal before the
law.

No group may
violate the
rights of others.



Laws and Law-Making Processes Are Transparent

- Citizens must be allowed access to information about how the laws are made and what the laws are.



Laws Are Known and Can Be Followed

- Laws are publicly promulgated. It must be possible for citizens to follow the laws; laws may not demand the impossible. No laws may be retrospective, that is, no one may be punished for an act that was not illegal when he or she committed it.



The government is itself subject to the law.

No one may be arrested, imprisoned, or deprived of life, liberty, or property, except by due process of law that is equal and available for all.



No One Is Above the Law and All Enjoy Access to the Law

Government

officials can be punished by law for violating the law, but they also enjoy the same legal right to due process of law as others.



The people delegate power to government and choose their representatives by free and fair elections.

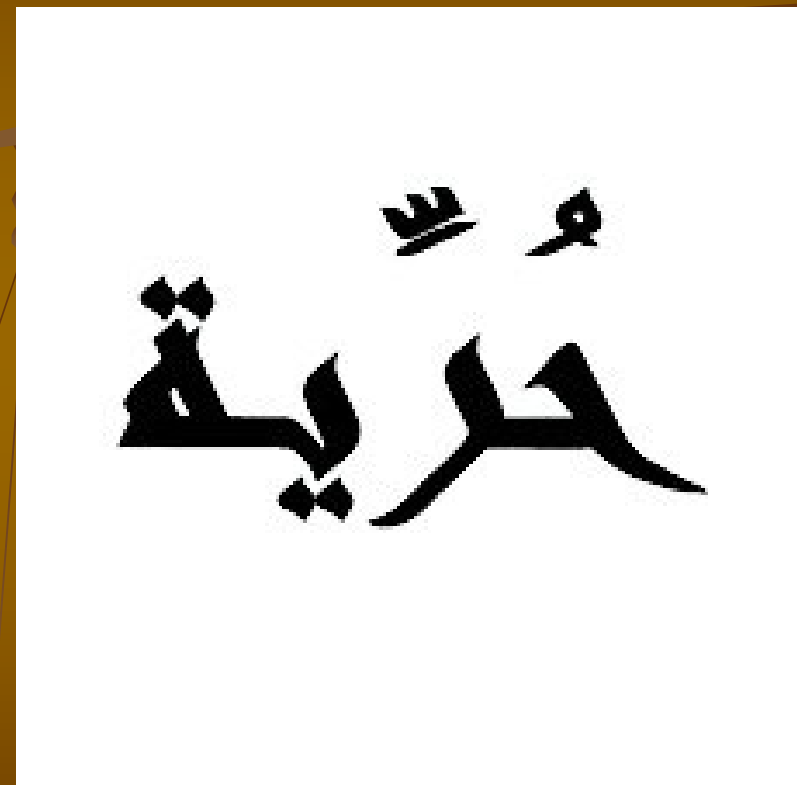


The People Are the Source of Legitimate Political Power

- Government has only the powers the people choose to delegate.
- The people choose their representatives through elections that are open to opposition candidates and parties.
- The people do not serve the government.
- Government serves the people and is limited in its powers by the basic law: the Constitution.

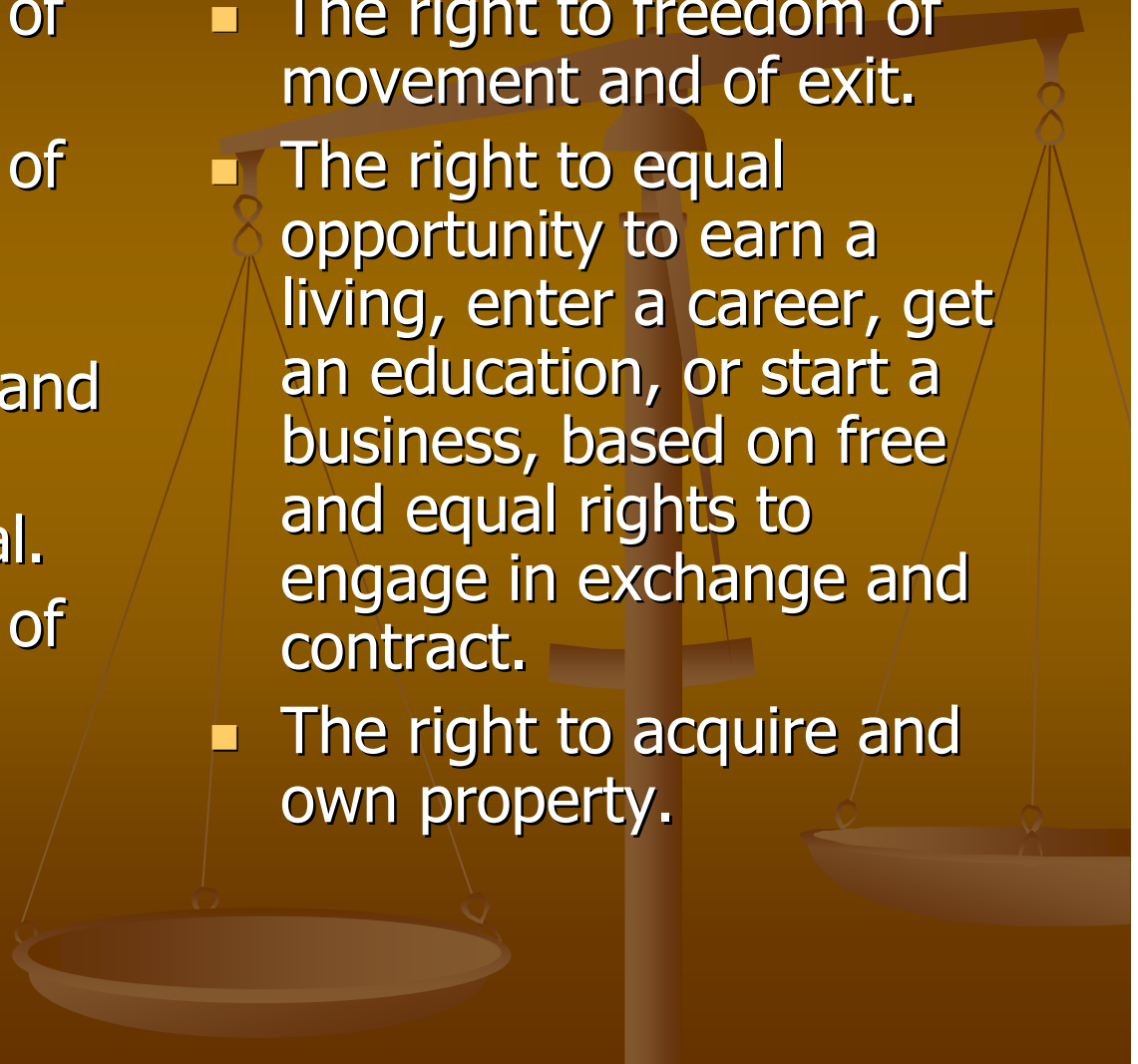
The Rights of the People Are Constitutionally Protected

- Everyone has basic rights that the state may not take away.
- Even a majority may not violate those rights; they are protected by law.



Those Rights Include (But Are Not Limited to):

- The right to freedom of religion.
- The right to freedom of assembly.
- The right to freedom from arbitrary arrest and from torture.
- The right to a fair trial.
- The right to freedom of expression.
- The right to freedom of movement and of exit.
- The right to equal opportunity to earn a living, enter a career, get an education, or start a business, based on free and equal rights to engage in exchange and contract.
- The right to acquire and own property.



An effective Constitution is not merely a “wish list” of things today’s majority wants.

- **An effective Constitution is like the architecture of a well built house that must last for many generations.**



The various parts of an effective
Constitution reinforce the whole
structure



An Effective Constitution Is Enforceable

- An effective Constitution is not merely what a majority wants, but what all can reasonably expect others to agree to. It restrains the majority from doing what they might want now, but which would weaken or even destroy the whole Constitutional order if enacted.
- An effective Constitution provides clear signals of when it has been violated and incentives to political groups and interests to protect the Constitution, even when violating it may be in their short-term interest.

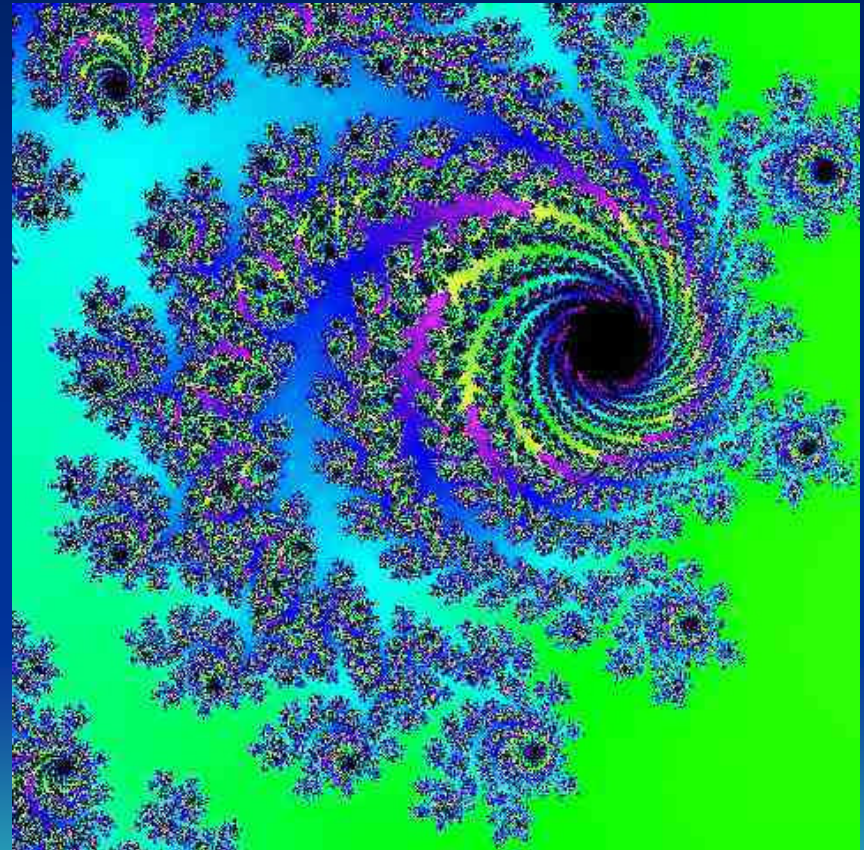


Maintaining the Constitution must be more important than getting a special advantage by violating it.



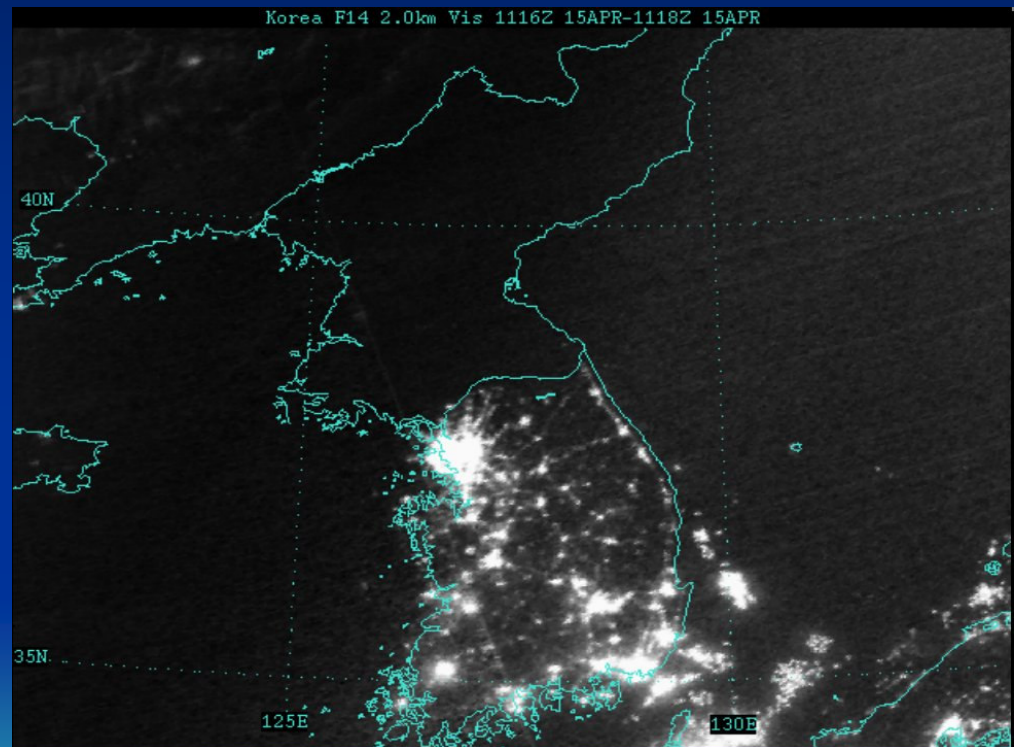
An effective Constitution is simple and clear enough that any literate and basically educated person can understand its principles

- An effective Constitution is not so complicated or so long that citizens cannot understand it.



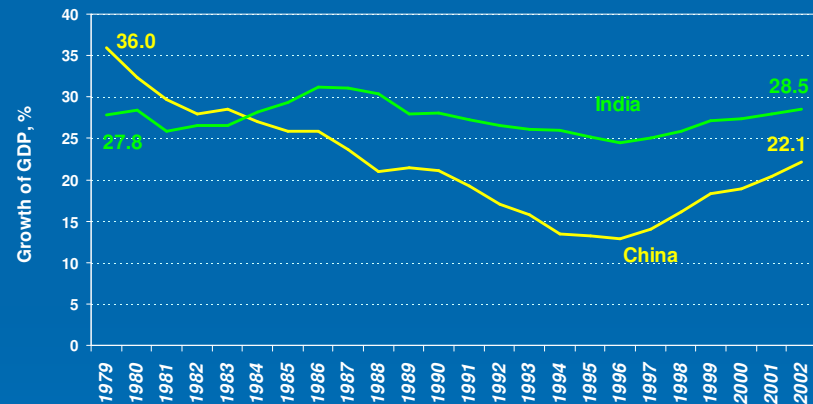
Incentives and Institutions Matter

- Incentives give signals to rational actors about what will advance their purposes
- Institutions give form to incentives
- What incentives do different people have to create light?



The Size of Government Matters, Too

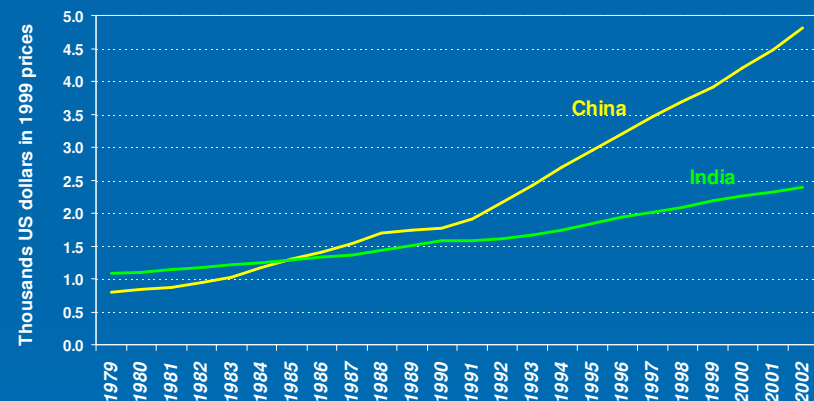
- **Government Spending as % of GDP in China and India, 1979–2002** (Source: Institute for Economic Studies, Moscow)



Smaller Government Leads to Greater Wealth

➤ *Per capita* GDP in China and India, 1979–2002

(Source: Institute for Economic Studies, Moscow)



The Challenge of Writing a Constitution



- "In framing a government, which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed, and in the next place, oblige it to control itself."
- --James Madison, principal framer of the U.S. Constitution (*Federalist No. 51*)

Basic Principles of Constitutional Democracy

No power is above the law

All are equal before the law.

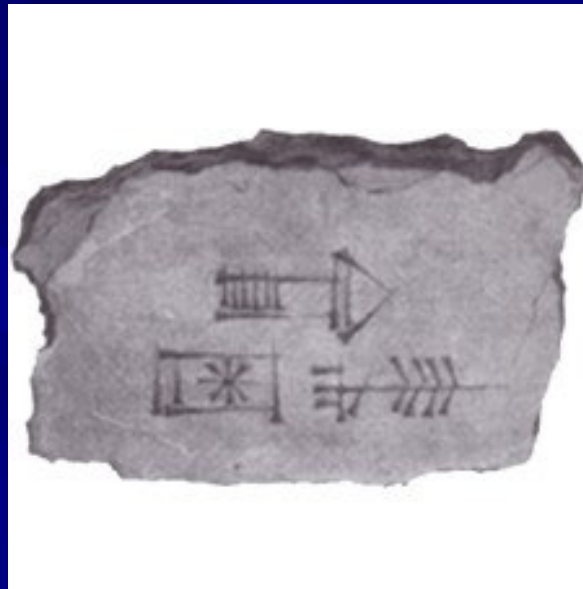
The people delegate power.

The rights of the people are constitutionally protected.

An effective constitution is like the architecture of a well built house that must last for many generations.



The Word “Freedom” Was First Written in Iraq: Liberty and Law Originated in Iraq



The word “ama-gi,” freedom, from a tablet in the ancient city of Lagash, Telloh in contemporary Iraq

Iraqis Can Now Exercise Their Freedom



Iraqis Now Have the Opportunity to Secure Their Freedom by Law



Creating and nurturing Iraqi democracy will require your wisdom, your energy, your strength, and your love of your country. A free, independent, and democratic Iraq is your right. You can make it happen.