

Only A Populist Anti-Corruption Movement Can Repair American Democracy, Says Larry Lessig

AlterNet Radio speaks with the influential legal scholar.

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(Editor's note: What follows is a Q&A with Larry Lessig, a Harvard Law School [professor](#) who is one of the country's leading public intellectuals on what needs to [happen](#) to repair American democracy for the 21st century. Lessig believes that the impact of private money in politics has created a culture of legal political corruption that is destroying American democracy. He has called for a convening constitutional convention to adopt reforms that he believes Congress would not propose on its own unless tremendous grassroots pressure emerges. AlterNet interviewed Lessig at the 28th Amendment [conference](#) in Los Angeles in November.)

Steven Rosenfeld: **We've been at the 28th Amendment conference all day where we've heard about all kinds of ideas for reforming our democracy starting with the campaign finance system, going towards constitutional amendments, constitutional conventions, things that could happen with the regulatory agencies in Washington, D.C. Professor Lessig, what progress do you see when you hear with everybody talking now? Stepping back, how do you think this movement is changing or where is it in its development?**

Larry Lessig: We're at the very beginning. And at the beginning people are fumbling to understand both where they should be standing and in which direction they should be walking. I think the movement should celebrate

enormous success so far in inspiring a movement around *Citizens United* that has produced millions of people who think of this as a fundamental problem that has to be addressed. This corruption and the movement to get states to pass resolutions calling on Congress to propose a constitutional amendment I think is a fantastic, important measure of its success. I think that we've got to now think what's the next step, what's the next move we can make that makes it easier for us to achieve cross-partisan support but also create the pressure on Congress that will be necessary for it to actually be forced to do something.

SR: That was my next question because you did talk about a cross-partisan approach. What do you mean by that—so people understand that this just can't be an idea adopted by 10 percent or 15 percent of any part of the political spectrum.

LL: Yes, by cross partisan I mean a movement that cuts across partisan lines. I don't imagine a movement that is going to get the lamb and the lion to sit down together, and you pick which is the lamb and which is the lion, but I think it has to be a movement that says, 'Look, we need to be able to put aside our difference long enough to focus on this common problem we have.' Then once we fix this common problem, we can get back to the fights that we have about what the tax rates should be or how much support there should be for business and so forth.

The cross-partisanship is essential because this change is fundamental, and no change happens in our system that's fundamental without cross-partisan support. We just don't have the capacity to do it. It's not a parliamentary democracy where 50 percent plus one gives you unlimited power to change the government. You

need three-fourths of the states to back up any constitutional amendment. We have to speak about this in a way—we have to be disciplined to speak about this in a way that the other side can hear.

SR: I want to ask you about what we should be doing to be disciplined, but first how do you come to the conclusion that we should not necessarily look at a specific amendment right now but rather call for a Constitutional Convention. What is the benefit of that approach?

LL: I think the chance of the United States Senate passing by 67 votes any amendment is zero, precisely zero. I think the energy to get Congress to propose an amendment is wasted energy. Instead, what we should be doing is devoting that energy towards the idea of getting state legislatures to call for a Constitutional Convention, actually to be precise, an Article V convention, and the more that happens, every single vote in the state legislature to do that, the more pressure is put on Congress.

At a certain point, the fact that we're at 31 or 32 or 33 of these states would mean the Congress has to recognize that it's just a matter of time now before there are enough states to force it to actually call a convention or it needs to implement the sort of changes that stop that movement. This is what happened with the 17th Amendment, which made it so the Senate was actually elected as opposed to appointed by state legislatures. I think we need to see the same thing in this context so that we give them a reason to respond to us as opposed to politely asking them to fix the problem they've caused.

SR: When you talk about this movement being more disciplined, what do you mean? Do we need to be more specific over the words, what's being asked by states of Congress?

LL: No, I mean by disciplined recognizing that what feels the best might not actually be what's good for you. I mean disciplined in a way that I try to get my 7-year-old and my 9-year-old and my 6-year-old and my 3-year-old to understand how they need to behave, right? There's a chocolate cake sitting there. Looks like a good thing to eat, but you need to kind of recognize that's actually not the best thing to have for breakfast, that chocolate cake.

A similar thing here; we are so deeply embedded in polarized political culture. Our media is like this. Our politicians are like this. It's natural for us to rally by expressing our hatred for the other side, and that rewards the organizations that facilitate it. It's much more successful to be Fox News and have radical support for your extreme position by your viewers because it turns out the revenue you can get from advertisers is through the roof compared to more moderate positions. That's the natural baseline, and to be disciplined is to recognize behaving like that is like eating the chocolate cake. Behaving like that produces a discourse that can't help but just turn the other side off. If we didn't need the other side, you could say, 'Who cares,' but my point is we don't win unless we can speak in a way that brings the other side in.

SR: You were saying before that it's really important to know what it is we're speaking about. Your whole presentation was we're talking about corruption, but by corruption you mean the way business is done legally in

Washington and how that advantages a very small class of economically privileged players. Maybe you can say it better.

LL: I would say it in a way that wouldn't push the buttons of the far Right which is the way what you just said would. I would say, 'We've got a system right now that is corrupt.' People on the left and the right can agree with that. 'It's corruption that manifests itself in part through a kind of crony capitalism.' People on the right love to think about that. 'Crony capitalism is very wealthy interests can basically buy or extort the kind of regulation they need to protect themselves against the competitive process.' What conservative, what honest principled conservative could approve of that system? The answer is none, none.

So if you begin to frame it in a way that they see that the corruption that I'm talking about from the left is the same sort of corruption they care about from the right, we could begin to build the foundation for a movement that doesn't say you have to agree with me about 10,000 issues but we can fight this common enemy. I'm always impressed by that iconic image of Franklin Roosevelt and Churchill and Stalin during World War II. Here's three guys sitting together representing an alliance. Nobody thinks that Roosevelt was a Stalinist because Roosevelt was sitting down with Stalin to figure out how to fight Hitler. Same thing with Churchill. That's the sensibility we need to develop in this kind of movement. You don't have to give up your position, you don't have to question your commitment to your position to say it's time for us to work with people we disagree with upon an issue for a cause that we do agree about and that is fixing the republic.

SR: What is the sequence of change here that you see, because obviously all great journeys are made up of smaller steps, and this is obviously a great journey.

LL: I think the smaller steps are the million instances of educating that ordinary people have to take up and engage. Friend telling friend, house parties, little showings of videos of different events, all the ways in which people can be brought around to the recognition of why this problem is so central, so crucial and why the politicians are not going to solve it for us.

If this election has told us anything, it is we can't count on them to even talk about this issue let alone global warming, let alone all the other important issues that just turn out not to pay to talk about if you're a candidate for President. We've got to do it ourselves, so we have to. It's going to take the small steps of people just converting one or two other people to this cause. If every person converts 10, then we're in a place where we begin to have enough in a mass mobilization that we can turn back to Congress and say, 'Congress, do something.'

The [American Anti-Corruption Act](#), what I like to call the AA Act is launched this week has as its strategy a million co-sponsors, not legislators, but citizens, a million citizen co-sponsors. You go onto the site. You can co-sponsor the Act. Once we get a million co-sponsors, then we can turn around and say to Congress, 'Okay, here's a bill that's got a million co-sponsors. Let's get it introduced and let's get 100 sponsors in the House and let's have 70 sponsors in the Senate and let's get it passed.'

SR: That's a series of steps that can happen now that are short of passing a constitutional amendment or calling for a constitutional convention, but essentially would balance some of the imbalances in Washington. It would have more disclosure. It would sort of break the revolving-door culture from members of Congress going into lobbying. It would also support campaign finance reform, public financing. Am I missing any elements?

LL: No. That's right. The American Anticorruption Act is a fundamental change in the way Washington works. There's no doubt about it. There's no doubt in my mind that it's constitutional, would pass if 51 members of the Senate and 200- and whatever the number is in the House, 217 in the House would vote for it, and the President certainly would sign it. I think that there's a lot to achieve short of a Constitutional Amendment or a Constitutional Convention, but as I said, we have to learn to walk, chew gum and tweet at the same time. That's what's necessary in this movement.

SR: Great. Thank you so much. This is Steven Rosenfeld for AlterNet Radio.