

## 'Citizen conventions' should respond to *Citizens United*, Harvard law professor suggests

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A Harvard Law School professor's idea on campaign finance reform took center stage at a Senate subcommittee hearing July 24, when he suggested holding "citizen conventions" to craft a constitutional amendment in response to the Supreme Court's decision in *Citizens United v. Federal Election Commission*.

Lawrence Lessig, who also directs Harvard University's Edmond J. Safra Center for Ethics, testified that conventions of 300 randomly selected people, held in four areas of the country, could act as a citizens' jury of how to respond in the wake of the 2010 decision. Americans will not trust Congress or a "blue ribbon" panel to do what is right, Lessig said, because they "can't believe the institution has the capacity to change itself to deal with the core problem."

In *Citizens United*, the Court found that corporations and unions cannot be banned from making independent expenditures to political action committees or candidates.

The subcommittee hearing examined the possibility of a constitutional amendment that would give Congress the authority to regulate campaign contributions by businesses. Sen. Dick Durbin (D-Ill.), who ran the hearing, said a grassroots movement "can put our country back on the right course after a Supreme Court opinion like *Citizens United* gets it dead wrong."

Sen. Tom Udall (D-N.M.) testified that his current bill to undo the 2010 decision has 23 co-sponsors, but the realistic goal would be to introduce a bipartisan bill early next Congress. Rep. Donna Edwards (D-Md.) testified that there are 92 representatives and 28 senators who support the idea of a constitutional amendment on the issue. Durbin said he begrudgingly concluded a constitutional amendment was the only response to a decision that lets an elite few "buy or control our political agenda."

Lessig said the challenge for Congress is to find a process that could convince America

that a corrupted institution can fix itself. "That is not an easy task, though it is crucial if you are to stop the spiraling cynicism that marks America's attitude towards its government," he wrote in a prepared statement.

Ilya Shapiro, a senior fellow in constitutional studies at the Cato Institute, said that the reforms proposed in Congress so far have an underlying problem of attempting to manage political speech. "Political money is a moving target that, like water, will flow somewhere," Shapiro said. "If it's not to candidates, it's to parties, and if not there, then to independent groups or unincorporated individuals acting together. Because what the government does matters and people want to speak about the issues that concern them."

Lessig pointed out that a response to regulating campaign finance is not as simple as other Constitutional amendments, such as the 19th Amendment as a response to women not having the right to vote.

Lessig detailed his plan for citizen conventions and admitted it could be seen as "radical." But he wants to select people much like a jury to hear arguments and information about what Congress should do about campaign finance. "That body would be removed from the influences thought to corrupt this Congress, but secured in its work through a series of protections that Congress would by law enact," Lessig wrote. "Its product would represent a mature and considered judgment of a statistically fair snapshot of America."

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