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Could Trump & Sanders Populism Fuel Constitutional Convention Approval? (/index.php/state/6620-could-trump-sanders-populism-fuel-constitutional-convention-approval)

November 11, 2016 | by [Rachel Silberstein \(/index.php/component/contact/contact/1457\)](#)

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Senator Bernie Sanders (photo: @BernieSanders)

With the 2016 presidential election over, can the populist fervor surrounding the candidacies of Senator Bernie Sanders and President-elect Donald Trump be harnessed into a new kind of revolution on a state level here in New York?

A year from now, next Election Day, New Yorkers will have the chance to vote on a referendum to call a Constitutional Convention, an opportunity to rewrite state laws that comes around once every 20 years. Proponents of the convention — at this point mostly academics and government reform groups like Citizens Union, but also Gov. Andrew Cuomo — are already pushing for New Yorkers to vote “yes” on the November 7, 2017 ballot question, saying it is a rare opportunity to take control of government, hold Albany leaders accountable, and enact ethics, elections, and other government reforms on specific issues like campaign finance, redistricting, voter registration, term limits, home rule, and more.

Sanders and Trump, both of whom won most New York counties in their respective April [primaries](http://www.nytimes.com/elections/results/new-york) (<http://www.nytimes.com/elections/results/new-york>), highlighted what they called the corrosive influence of wealthy interests and corporations on the political system and promised new kinds of people-powered government. They called the system rigged and broken, the government controlled by special interests, and spoke to the concerns of many voters who’ve lost faith in their elected representatives. They called for revolution, albeit with some essential differences.

But what will become of these movements in the aftermath of this Election Day? A New York Constitutional Convention -- or ConCon, as it is often called -- provides a chance to engage these constituencies and their sense of marginalization to literally “take back the government” by rewriting any and all aspects of the state constitution. This, at a time when legislators seem unable or unwilling to police themselves, reform democratic systems, and address long-standing problems.

A June [Siena College poll](https://www.siena.edu/news-events/article/by-two-to-one-voters-say-new-ethics-reform-legislation-will-not-reduce-corr) (<https://www.siena.edu/news-events/article/by-two-to-one-voters-say-new-ethics-reform-legislation-will-not-reduce-corr>) showed that most New Yorkers do not trust the latest reform bills to stem corruption in Albany, and 68 percent said they’d support a Constitutional Convention. However, in the same poll, two-thirds of New Yorkers responded that they had read or heard nothing about a Constitutional Convention, and another quarter said they had heard “very little.”

The last time a ConCon was on the ballot, in 1997, it was voted down by a two-to-one margin. With scant public awareness of the issue, and powerful interests lining up in opposition, voters’ views could easily shift against the idea as the next election nears -- as was the case during the last vote. Whether or not a populist fervor can be whipped up around a ConCon vote is one major 2017 question awaiting New York.

One pro-ConCon group that has tried to capitalize on Sanders energy is the New Kings Democrats (NKD), a progressive reform political club in Brooklyn that voted almost unanimously to make ConCon part of its

platform (<http://www.newkingsdemocrats.com/concon>) earlier this year. An officer of the group said NKD reached out to the Sanders campaign ahead of the New York primaries about the issue, but was rebuffed.

"It kind of never got off the ground," said Brandon West, the group's vice president of policy and political affairs. "The response we got was, 'We're trying to get Bernie elected president; let us know if you want to help.'"

A representative from Team Bernie New York declined to comment on a Constitutional Convention, saying before Election Day that while the team is aware of the ballot measure, it was focused electing Sanders-aligned candidates like Zephyr Teachout for Congress. (Teachout lost, but could be a powerful pro-ConCon voice if so inclined.)

Local chapters of major and minor political parties Gotham Gazette spoke with — including the Working Families Party — have yet to take a public position on ConCon.

Meanwhile, organized opposition to a Constitutional Convention is coming from labor unions (<http://newyorkstateara.org/wp-content/uploads/2015/09/constitutional-convention-article-2015-gavin.pdf>) and some environmental advocates who fear a nuclear approach to constitutional reform could put at risk workers' pensions and environmental protections — such as a mandate (<http://www.dec.ny.gov/lands/55849.html>) that the Adirondacks Mountains be kept "forever wild."

Those fears are echoed by many New York progressive reformers including Democratic State Assemblymember-elect Robert Carroll, whose political club Central Brooklyn Progressive Democrats (CBID) endorsed Sanders in the primary.

"My worry is that there are lots of worker protections, environmental protections and a whole host of other progressive safeguards in the New York State constitution, and I want to make sure those are preserved," Carroll said in a phone interview.

Carroll, and others, have noted that the ConCon delegate selection process is a main concern. The larger process would begin with ConCon approval through the ballot question on November 7, 2017. If approved, New Yorkers would then vote in 204 convention delegates on the following Election Day; the convention would commence the first Monday in April 2019; and New Yorkers would vote to ratify any proposed changes to the constitution as early as November 2019. (All proposed changes to the constitution that come from a ConCon are presented to voters for approval or disapproval.)

While technically anyone can run as a ConCon delegate, in practice, those with power and name recognition -- including state lawmakers themselves -- are typically elected, resulting in little change to the system, as was the case at a rare government-initiated ConCon in 1967.

"We don't know who is going to be in that convention or what the makeup will be," said Carroll, warily of the hypothetical ConCon.

J.H. Snider, a ConCon expert, has written in Gotham Gazette (<http://www.gothamgazette.com/index.php>

[/opinion/5753-preparing-for-new-yorks-next-constitutional-convention-referendum-cuomo-snider](#)) that a truly fair and democratic ConCon vote would require legislators to be barred from running as convention delegates, and in fact, plural office-holding -- which is banned in other states -- is one of the issues a constitutional convention could address.

Gov. Cuomo, a second-term Democrat, said during his January State of the State that, "a constitutional convention that is properly held – with independent, non-elected official delegates – could make real change and re-engage the public."

But, the \$1 million that Cuomo proposed to include in the state budget to fund a preparatory committee for a potential ConCon did not appear in the spending plan approved a few months later.

During the general election, Sanders urged his supporters to embrace Clinton, and his movement has splintered into different factions, some reluctantly embracing the Democratic nominee, another segment backing the Green Party's Jill Stein, and still other organizations — like Team Bernie New York — pushing for candidates in local races that aligned with Sanders' message.

Every pro-Sanders group Gotham Gazette spoke to said that the ConCon referendum is not a priority on its post-primary agenda. It is quite early, but if 2016 momentum is not captured and continued, it may be gone for good.

Michael Blecher, a former Sanders activist who now runs a grassroots organization called [Politics Reborn](https://politicsreborn.org/) (<https://politicsreborn.org/>), said his group is currently focused on democratizing New York City's district leader and county committee races, and that he is cynical of ConCon's potential delegate selection process. However, he noted that attitudes among his fellow Sanders supporters might shift following the presidential election.

"[Sanders organizers] are about to have this existential crisis — after November 8 — as far as whether certain progressive leaders are willing to put it front and a center," said Blecher of ConCon during an October interview.

For example, he said, Politics Reborn might consider informing the public about the ballot question as part of its canvassing efforts. Reforming how district leaders and county committee representatives are chosen could be a serious plank at a ConCon, but Blecher's cynicism about the prospects for true reform appear fairly widespread, at least at this point and among those who know about a ConCon.

Political scientist and SUNY New Paltz professor Gerald Benjamin said Constitutional Convention advocates like himself face an uphill battle in reaching voters and expressed frustration at the lack of political organization.

"Where is the organized effort? It's a year out and where are the resources? The people who want people to know about this are out there giving speeches — including me — but we are talking about telling millions of people that this is an opportunity to participate in major legislative reform," he said.

In contrast to the tepid response from Sanders organizers, ahead of the election, New York Trump supporters told Gotham Gazette that regardless of its outcome, a ConCon would be a crucial part of their strategy to gain more citizen control over state government. Trump surrogate Carl Paladino — a Buffalo businessman who ran for governor in 2010 and has a history of Trump-like rhetoric — said he hoped a ConCon would dismantle the old power structures crippling Albany.

"Our state has decayed so much from the control of the progressive liberals; it has to happen, and I would want very much to be a part of it," said Paladino. A ConCon would allow the public to pass laws without going through a Legislature "controlled by a dictator like Sheldon Silver," he added, referencing the disgraced former Assembly Speaker, a Manhattan Democrat now convicted on public corruption charges.

Both Republicans and Democrats have an interest in enacting term limits and other governmental reforms, but if they fail to form an organized coalition, extreme voices like Paladino's have the potential to scare voters off, according to Benjamin.

"It can only work if the reasonable and responsible people organize, but if the Paladinos come forward as a force for change, it's going to fail for sure," said Benjamin.

New York City, which makes up 40 percent of the statewide electorate, is likely to be weighted significantly more heavily in the upcoming vote, since it coincides with the city's 2017 mayoral and other municipal elections. New York City Mayor Bill de Blasio, a Democrat running for re-election next year, has expressed skepticism about a ConCon. In a recent interview [with WNYC's Brian Lehrer](http://www.wnyc.org/story/askthemayor-10616) (<http://www.wnyc.org/story/askthemayor-10616>), de Blasio suggested the convention would be corrupted by big money interests.

"If corporations were banned and wealthy individuals were banned from dominating the political process, I would be very interested in the Constitutional Convention that could actually fix a lot of problems in the state constitution," de Blasio said, in response to a question from a caller to the show, "but my hesitation has always been — we're literally talking about a rigged economy."

If the mayor decides to take a more decisive and forceful position on the convention, it could sway the vote. Conversely, as John Kenny, publisher of New York True, [points out](http://www.newyorktrue.com/trump-concon-effect/) (<http://www.newyorktrue.com/trump-concon-effect/>) there remains the possibility that a Republican mayoral challenger — [Queens City Council Member Eric Ulrich](#), [perhaps](#) ([/index.php/city/6590-ulrich-starts-raising-funds-on-message-of-beating-de-blasio-in-2017](#)) — would come out in favor of a convention and drive a "yes" vote.

Political scientist and Hunter College professor Kenneth Sherrill, who is pushing for a ConCon, says the power of big money to derail the convention has been overstated.

"It's a difficult political process to get on," he said. "There are lots of big money interests, but they are countervailing interests. While the Koch brothers might give their interests, for example, they will have no interest in 'forever wild.' It's not as if big money is going to be a unified force in this."

One issue wealthier interests, which can include labor unions, will likely be unified on, though, is preventing

limitations on campaign contributions. A Republican state Senate has prevented the passage of campaign finance reform in Albany, even closure of the notorious LLC loophole, which allows virtually unlimited campaign donations from entities who set up multiple limited liability corporations. Cuomo has said (<http://www.gothamgazette.com/index.php/state/6409-cuomo-appears-to-give-up-on-legislature-closing-llc-loophole>) that it appears the only way the LLC loophole will be closed is if "the people do it." Some do question (<http://www.gothamgazette.com/index.php/state/6283-a-post-budget-test-of-the-governor-s-commitment-to-a-constitutional-convention>) Cuomo's commitment to a ConCon since the money did for the preparatory committee for a ConCon did not make it into (<http://www.gothamgazette.com/index.php/state/6283-a-post-budget-test-of-the-governor-s-commitment-to-a-constitutional-convention>) the final 2017 budget, indicating little support from top state electeds. Cuomo did stump for a Democratic takeover of the state Senate, which would lead to closure of the loophole and other campaign finance reform, but that effort appears to have failed. The GOP retained its Senate majority on Tuesday, perhaps giving Democrats more impetus to pursue change through a convention.

The New York State constitution -- which dates back to 1777 -- was mostly rewritten at a 1894 convention, with significant changes made at the 1937 convention. While several amendments have been made since, parts are outdated, and some argue that a Constitutional Convention is necessary simply to update the lengthy, convoluted document. However, if Bernie Sanders supporters in this overwhelmingly Democratic city and state choose not to jump on board with the convention soon, pro-ConCon Trump voices may spook many New Yorkers, reinforcing the fears that it would endanger hard-won progressive measures, leaving the decision up to the next generation of voters — in 2037.

by Rachel Silberstein for Gotham Gazette
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Note: this story has been corrected to remove mention of NYPIRG and League of Women Voters as having endorsed a Constitutional Convention.

Note: Gotham Gazette is an independent publication of Citizens Union Foundation, sister organization of Citizens Union.

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