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Occupy the Social Contract! Participatory Democracy and Iceland's Crowd-Sourced Constitution

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Abstract

Recent responses to the global economic crash of 2008, such as Occupy Wall Street and other political encampments, have raised important questions about the constitution of the “we” and the relationship between democracy and change in the context of contemporary capitalism. To address these important new political developments, this article argues for “participatory contract building” as a new direction in critical contract theory and participatory democracy. In order to unpack this approach, it analyzes the recent “crowd-sourced” constitution-drafting process in Iceland. It is suggested that this example may provide a platform for a multi-tiered practice of participatory contract building, one that engages the many places in which we find ourselves subject to contractual relations in ways that offer people more opportunities to make meaningful decisions about the power relations that shape our lives.

Notes

¹ Myles Horton with Judith and Herbert Kohl, *The Long Haul* (New York: The Teachers' College Press, 2007), p. 134.

The authors would like to thank Laura Black, Judith Grant, and Andrew Ross for helping us to think through the issues raised in this piece.

² *Ibid.*

³ Carole Pateman, *The Sexual Contract* (Cambridge, UK: Polity, 1988); see also Charles Mills, *The Racial Contract* (Ithaca, NY: Cornell, 1997); Christine Keating, *Decolonizing Democracy: Transforming the Social Contract in India* (University Park, PA: Penn State Press, 2011).

⁴ Jodi Dean, *Communicative Capitalism and Other Neoliberal Fantasies* (Durham, NC: Duke University Press, 2009); Jodi Dean, *The Communist Horizon* (London, UK: Verso, 2012).

⁵ See Carole Pateman, *Participation and Democratic Theory* (Cambridge, UK: Cambridge University Press, 1970); see also C.B. Macpherson, *The Life and Times of Liberal Democracy* (London, UK: Oxford University Press, 1977); Joshua Cohen and Joel Rogers, *On Democracy* (Middlesex, UK: Penguin, 1983); Benjamin Barber, *Strong Democracy: Participatory Politics for a New Age* (Berkeley, CA: University of California Press, 1984); and Christine Keating, "Developmental Democracy and Its Inclusions: Globalization and the Transformation of Participation," *Signs: Journal of Women in Culture and Society* 29:2 (2004), pp. 417–437.

⁶ Boaventura de Sousa Santos, *Democratizing Democracy: Beyond the Liberal Democratic Canon* (London, UK: Verso, 2006), p. xxxi.

⁷ Andrea Cornwall, *The Participation Reader* (London, UK: Zed Books, 2011), p. xiii. See also Bill Cooke and Uma Kothari (eds), *Participation: The New Tyranny?* (London, UK: Zed Books, 2001) for an analysis of discourses, techniques, and practices of participatory development. As several of the essayists in this collection note, it is important to distinguish critiques that are concerned with ways that the participation

engendered by these practices might serve to reify existing power relations from those critiques of participation that hold that “generally experts and the state do know better, that managers of development organizations and projects need freedom to act quickly to achieve results, and that people are more interested in short-term substantive livelihood improvement than participation” (Harry Taylor, “Insights into Participation from Critical Management and Labour Processes Perspectives,” in Bill Cooke and Uma Kothari (eds), *Participation: The New Tyranny?* (London, UK: Zed Books, 2001), p. 138). It is not the value of participation itself but rather the terms and conditions of such participation that are at issue in progressive appraisals of contemporary development approaches.

⁸ Carole Pateman, “Participatory Democracy Revisited,” *Perspectives on Politics* 10:1 (2012), p. 10.

⁹ Pateman, *The Sexual Contract*; see also Mills, *The Racial Contract*; and Keating, *Decolonizing Democracy*.

¹⁰ Carole Pateman, “Contract and Social Change: A Dialogue Between Carole Pateman and Charles Mills,” in Carole Pateman and Charles Mills, *Contract and Domination* (London, UK: Polity, 2007), p. 15.

¹¹ Pateman, *The Sexual Contract*; see also Mills, *The Racial Contract*.

¹² Keith Whittington, *Constitutional Interpretation: Textual Meaning, Original Intent, and Judicial Review* (Lawrence, KS: University Press of Kansas, 1999).

¹³ Ayelet Shachar, *Multicultural Jurisdictions: Cultural Differences and Women's Rights* (Cambridge, UK: Cambridge University Press, 2002), p. 210. See also Ayelet Shachar, “The Thin Line between Imposition and Consent: A Critique of Birthright Membership Regimes and Their Implications,” in Martha Minnow (ed.), *Breaking the Cycles of Hatred: Memory, Law and Repair* (Princeton, NJ: Princeton University Press, 2002), pp. 200–235.

¹⁴ Shachar, *Multicultural Jurisdictions*, p. 222.

¹⁵ de Sousa Santos 2006, *Democratizing Democracy*, pp. xxx–xxxii.

¹⁶ SXSW, “Rebooting Iceland: Crowdsourcing Innovation in Uncertain Times,” < http://youtube.com/watch?v=2_i8Ks5k_O8>.

- ¹⁷ Pateman, "Participation Revisited," p. 10.
- ¹⁸ SXSW, "Rebooting Iceland."
- ¹⁹ Sylvia Swiden, "The Pots and Pans Revolution in Iceland and its Aftermath," 2012, < <http://jhaines6.wordpress.com/2012/05/27/the-pots-and-pans-revolution-in-iceland>>.
- ²⁰ Paul Krugman, "The Conscience of a Liberal," New York Times, March 30, July 8, 2012.
- ²¹ Haarde was subsequently found guilty of not informing his cabinet of major developments during the crisis.
- ²² Swiden, "The Pots and Pans Revolution."
- ²³ David Teather, "Iceland Will Vote Against Repaying UK and Netherlands in Referendum, Polls Suggest," The Guardian, January 6, 2010; see also "Icelandic Voters Reject Icesave Debt Repayment Plan," The Guardian, April 10, 2011.
- ²⁴ Andrew Higgins, "Iceland Wins Major Case Over Failed Bank," New York Times, January 28, 2013.
- ²⁵ Sarah Lyall, "Significant Victory for Iceland," New York Times, March 22, 2013.
- ²⁷ Ibid.
- ²⁶ Gudjon Mar Gudjonsson, "How to Organize an Authentic and Genuine Forum," 2012, < <http://agora.is>>.
- ²⁸ Stjornlagarad, 2011, < <http://stjornlagarad.is/starfid/frumvarp/>>.
- ²⁹ Ibid.
- ³⁰ Ibid.
- ³¹ Ibid.
- ³² Richard Bater, "Hope From Below: Composing the Commons in Iceland," Open Democracy: Free Thinking For the World, 2011, < <http://www.opendemocracy.net/richard-bater/hope-from-below-composing-comm>>.
- ³³ SXSW, "Rebooting Iceland."

- ³⁴ The measure passed by a thirty-five-fifteen margin, with the opposition coming from the ousted Independent Party.
- ³⁵ Harvey Morris, "Crowdsourcing Iceland's Constitution," *International Herald Tribune*, October 24, 2012.
- ³⁶ Dean, *The Communist Horizon*, p. 229.
- ³⁷ *Ibid.*, 58, 65.
- ³⁸ Miguel Marques, *Pots, Pans, and Other Solutions*, 2012, 59:40, Documentary, < <http://www.youtube.com/watch?v=JGwMllpgR2A>>.
- ³⁹ Dian Marino, *The Wild Garden: Art, Education, and the Culture of Resistance* (Toronto, Canada: Between the Lines Press, 1997), p. 188.
- ⁴⁰ Paulo Freire, *Pedagogy of the Oppressed* (New York: Continuum Press, 1993).
- ⁴¹ Morris, "Crowdsourcing Iceland's Constitution."
- ⁴² "Iceland," *New York Times*, July 9, 2012.
- ⁴³ Sarah Lyall, "Iceland Ousts Government That Steered It Out of Crisis," *New York Times*, April 28, 2013.
- ⁴⁴ Alda Sigmundsdóttir, "Iceland's Election: Voters Fear the EU More Than a Return to the Bad Old Days," *The Guardian*, April 26, 2013.
- ⁴⁵ Alexandra Topping, "Reykjavík's Radical Mayor Blazes a Trail for the Revolution in Digital Democracy," *The Guardian*, April 25, 2013.

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