
Democracy, demarchy, and international federalism

by Ekkehard A. Köhler & Daniel Nientiedt

Friedrich Hayek's oeuvre famously includes a critique of the prevailing way in which democracy has been implemented in Western societies. The shorthand he uses for his diagnosis is "unlimited democracy." According to Hayek, democracy is unlimited in the sense that parliaments can pass any law that has the support of the majority, regardless of its form or content, and its implications for the freedom of the dissenting minority.⁴⁴ While there are a number of (potential) institutional remedies to this problem, Hayek's own proposed solution is the "model constitution," a bicameral parliament where one chamber is strictly confined to adopting general rules of conduct.

By being unlimited, Hayek claims, modern democracies do not conform to the concept of democracy as it was originally intended. He says

⁴⁴ This issue was already raised by Alexis de Tocqueville. See the chapter "Tyranny of the Majority" in Tocqueville, A. *Democracy in America, Vol. 1*, Liberty Fund 1835/2012.

that in Ancient Greece, the term “democracy” expressed the idea that ultimate political power should be in the hands of the people. Hayek maintains that there are two possible interpretations of this, namely that parliamentary assemblies elected by the people

- 1) should wield unlimited power or
- 2) should wield strictly *limited* power and be embedded in an institutional system of checks and balances that serves the interests of all citizens.

In Hayek’s view, existing democracies essentially follow the first interpretation, while the second interpretation would be much closer to the Greek tradition (and the views more recently expressed by proponents of liberal constitutionalism). Since the term democracy has “become indissolubly connected with the conception of the unlimited power of the majority”, he proposes the term “demarchy” – a combination of the Greek words for “people” and “rule” – to denote the second interpretation.⁴⁵

⁴⁵ On “the basic ideal originally described by [democracy]” and the distinction between democracy and demarchy, see “The Confusion of Language in Political Thought,” in: Hayek,

Hayek's critique of unlimited democracy is developed most fully in the three-volume *Law, Legislation, and Liberty* (1973–1979). However, this account builds on much earlier discussions of the concept of democracy to be found in his work. Probably the earliest such discussion appears in Hayek's writings about international federalism of the late 1930s and early 1940s, a fact which has received very limited attention so far.⁴⁶

Hayek wrote about international federalism for two reasons. On the one hand, he was interested in federalism as a mode of government and showed theoretically that sovereign states could gain by moving certain powers from the national level onto a higher – international – level of government. On the other hand, he made concrete policy proposals for establishing federations in Europe after WWII and, later, the Middle East.⁴⁷

F. A. *New Studies in Philosophy, Politics, Economics, and the History of Ideas*, University of Chicago Press 1978, pp. 71-97.

⁴⁶ A notable exception is Streeck, W. *Buying Time. The Delayed Crisis of Democratic Capitalism*, Verso 2014.

⁴⁷ For an overview of Hayek's federalism writings, see Nientiedt, D. "F. A. Hayek and the World of Tomorrow: The Principles of International Federalism." *Cosmos + Taxis* 10.11-12 (2022): 97-103. The idea for a Middle-Eastern federation is described by Van de Haar, "Ludwig von Mises

What is the connection between international federalism and democracy? In *The Road to Serfdom*, Hayek remarks that “federalism is ... nothing but the application to international affairs of democracy, the only method of peaceful change man has yet invented.” Presumably, this refers to the fact that an international federation of sovereign states, as imagined by Hayek, is consensually created and must (therefore) make collective decisions in some sort of democratic manner.

But the connection goes deeper than that. In his 1939 paper “The Economic Conditions of Interstate Federalism,” Hayek claims that establishing an international democratic system of government will also bring about “a resuscitation of the [democratic] ideal in its true form.” In this case, he defines the democratic ideal as “government by agreement” and explains that it means that “we do not require the government to act in fields other than those in which we can obtain true agreement.”

and Friedrich Hayek: Federation as Last Resort.” *Cosmos + Taxis* 10.11-12 (2022): 104-18.

This description of the democratic ideal can in all likelihood be traced back to Lord Acton, who says on the issue:⁴⁸

The true democratic principle, that none shall have power over the people, is taken to mean that none shall be able to restrain or elude its power. The true democratic principle, that the people shall not be made to do what it does not like, is taken to mean that it shall never be required to tolerate what it does not like. The true democratic principle, that every man's free will shall be as unfettered as possible, is taken to mean that the free will of the collective people shall be fettered in nothing.

Acton's perspective on democracy is similar to that which Hayek identifies as the Greek view: Both combine the notion that power should be in the hands of the people with the notion that democracy should serve the interests of the "collective people," that is, all people. The second criterion is presumably why Hayek says that democratic

⁴⁸ This quote taken from Hayek's 1944 speech "Historians and the Future of Europe," in: Klein, P. G. (ed.) *The Collected Works of F. A. Hayek, Vol. 4, The Fortunes of Liberalism: Essays on Austrian Economics and the Ideal of Freedom*, University of Chicago Press 1992, pp. 201-215.

decisions should ideally be based on true agreement.

Now, Hayek argues that under international federalism, decision-making at the federal level comes considerably closer to the democratic ideal of government by agreement than decision-making at the national level.

Why would that be the case? Hayek explains that the member states of a large and diverse federation will find it difficult to agree on any legislation that discriminates in favor of certain groups, regions, or industries. He gives the example of tariffs, which the federation could impose on imported goods to protect its domestic industries. Hayek doubts that an agreement on this kind of legislation could be reached, as the benefits would accrue only in a very small part of the federation: “Is it likely that the French peasant will be willing to pay more for his fertilizer to help the British chemical industry? Will the Swedish workman be ready to pay more for his oranges to assist the Californian grower?”

Hayek believes that the answer to these questions is no. It follows that economic policy-making at the federal level will typically be restricted to legislation that affects all parts of the federation

uniformly, and on which actual agreement – in the sense of unanimous support – can be reached. In more abstract terms, Hayek argues that decision-making at the federal level will be chiefly responsible to the common (or shared) interests of all federal citizens, and not to particular interests.⁴⁹

As mentioned at the outset, Hayek’s critique of democracy from the 1970s onward focuses on the problem that, under the current form of democracy, parliamentary majorities have too much power and could undermine citizens’ legitimate interests. He attacks the status quo by highlighting the original meaning of the term democracy, and by proposing the model constitution as an alternative institutional arrangement. The present essay shows that a very similar set of arguments can be found in Hayek’s international federalism writings of the 1930s and 1940s. In these early texts, he is already concerned with the meaning of democracy and with an alternative institutional arrangement – in this case, international federalism – that has the potential to limit the power of the majority and align real-world

⁴⁹ On citizens’ common interests as a normative benchmark for institutional change, see, e.g., Vanberg, V. J. “James M. Buchanan’s Contractarianism and Modern Liberalism.” *Constitutional Political Economy* 25.1 (2014): 18-38.

democratic decision-making more closely to the democratic ideal.

Such arguments have long been ignored because modern political science regards the tyranny of the majority as a spurious problem, as Robert Dahl points out in his 1989 book *Democracy and Its Critics*. Almost four decades later, social science is confronted with democratic backsliding. In light of this development, Dahl's argument that modern democracy has "built-in" limits to prevent a tyranny of the majority must be put under closer scrutiny. Hayek's ideas should be re-assessed in this endeavor.

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