

Paradiplomacy: Scope, Opportunities and Challenges

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0. Introduction

Paradiplomacy is a relatively new phenomenon and subject in the study of international relations. It refers to what one could describe as a “foreign policy capacity” of sub-state entities, their participation, independent of their metropolitan state, in the international arena in pursuit of their own specific international interests. This is a conceptually and practically challenging development—conceptually because the discipline of international relations does not normally consider sub-state entities as subjects of international relations; and practically because states’ claim to external sovereignty, their unique right to engage with other players in the international arena, is, in a sense, hollowed out and perhaps fatally undermined if they have to share this essential prerogative of stateness.

Paradiplomacy as an emerging policy capacity of sub-state entities in general can be enjoyed by both the states (or provinces, regions, *Länder*) of federations and the autonomous entities of otherwise unitary states. The latter are often established to overcome another, not uncommon challenge to state sovereignty—the demand for self-determination by particular communities who normally define themselves *qua* a distinct (ethnic) identity from the rest of a state’s population and as part of this claim a portion of that state’s territory as their own. Autonomy thus challenges state sovereignty at two levels—internally and externally—but at the same time offers a unique mechanism to turn these challenges into opportunities for constructive conflict management.

The overall argument of this article is that rather than seeing paradiplomacy as a threat, it should be embraced as a necessity and opportunity in the process of managing and ultimately resolving what might otherwise be protracted self-determination conflicts. Following a brief conceptual introduction to what autonomy means, I explore the policy areas in which such entities participate in the international arena. I then make some general observations about opportunity and interest structures as factors that determine the practical scope of paradiplomacy and illustrate this with three western European examples—Flanders in Belgium, Catalonia in Spain, and Scotland in the United Kingdom. Finally I return to the question of whether paradiplomacy is indeed a challenge to

state sovereignty and what its practical limits and opportunities are to contribute to the constructive management of self-determination conflicts.

1. Autonomous Entities: A Conceptual Definition

Before we can discuss the scope, opportunities and challenges that autonomous entities' participation in the international arena pose we have to define relatively precisely what we mean by such entities in order to enable us to conduct a meaningful comparison.

There is relatively little agreement among academics of various disciplines about how to define autonomy, but most definitions include a number of criteria that need to be fulfilled for a territory within an existing state to qualify as an autonomous entity. I shall limit myself here to *territorial* forms of autonomy, and not discuss *corporate* autonomy, even though the latter theoretically, but rarely practically, could also pursue various forms of participation in the international arena.

The basic idea underlying the territorial concept of autonomy is that the autonomous entity is defined in territorial terms. Thus, a population living in a certain territory is granted autonomous status regardless whether the individuals living on this territory belong to one or another ethnic group. Territorial autonomy, in this most general sense, thus describes self-governance of a demographically distinct territorial unit within an existing unitary state,¹ comprising the following elements:

- i. *Demographic distinctiveness of autonomous entity*: The majority population, or at least a significant minority, is ethnically/culturally/linguistically/religiously distinct from the country's dominant group.
- ii. *Devolution of power*: Autonomous entities exercise legislative, executive and judicial powers independent of other sources of authority in the state in a significant number of substantive policy areas. These powers are exercised by the legislative, executive and judicial institutions of the autonomy, e.g., a regional assembly, government, courts, and executive agencies under regional control, including the police.

¹ My thanks to Marc Weller for sharing his thoughts on the characteristics of autonomy with me.

- iii. *Legal entrenchment*: The status of the autonomous entity is normally constitutionally entrenched, and sometimes internationally guaranteed. At the same time, the country's constitution and its international obligations put legitimate limits on the exercise of powers by the autonomous entity.
- iv. *Limited external relations powers*: Autonomous entities will normally not enjoy traditional foreign affairs powers, but in some cases have limited authority to engage in international contacts that correspond to the substantive competences that has been granted to them. In some instances, there may also be specific opportunities for the development of special links in relation to cross border co-operation and/or membership in particular international bodies.
- v. *Integrative mechanisms*: The powers of self-governance will typically be balanced with tools that ensure the continued and effective integration of the autonomous unit with the overall state. This includes the availability of dispute settlement mechanisms at the level of the Constitutional Court, arrangements for the transfer of resources between the centre and the autonomous unit, and the guaranteed representation of the autonomous unit in the structures of national government.

Following this definition, we find entities that fulfil the majority of criteria enumerated above on all continents; they are particularly numerous in Europe and less prominent in Africa. Examples include Nagorno-Karabakh and Nakhchivan in Armenia; Brussels, Flanders, and Wallonia in Belgium; the Federation of Bosnia and Herzegovina and the Republika Srpska in Bosnia and Herzegovina; the Faroe Islands and Greenland in Denmark; the Åland Islands in Finland; Corsica in France; Abkhazia, Ajaria and South Ossetia in Georgia; Aceh and West Papua in Indonesia; Aosta Valley, Friuli Venezia Giulia, and Trentino-South Tyrol in Italy; Gagauzia and Transnistria in Moldova; the North Atlantic Autonomous Region and the South Atlantic Autonomous Region in Nicaragua; Guangxi, Inner Mongolia, Ningxia, Tibet, Xinjiang, Hong Kong, and Macau in the People's Republic of China, the Autonomous Region of Muslim Mindanao in the Philippines; the Azores and Madeira in Portugal; Nevis in St Kitts and Nevis; Príncipe in São Tomé and Príncipe; Vojvodina in the Republic of Serbia; the Basque Country, Catalonia, Ceuta, Galiza, and Melilla in Spain; Darfur and Southern Sudan in Sudan; Gorno-Badakshan in Tajikistan; Zanzibar in Tansania; Tobago in Trinidad and Tobago; Crimea in Ukraine; Northern Ireland, Scotland, Wales, the

Channel Islands and the Isle of Man in the UK, and Karakalpakstan in Uzbekistan.²

2. Participation in the International Arena: Policy Areas

Among the criteria listed above, (iv) is obviously of particular interest for this comparative analysis. On the one hand, it makes clear that autonomous entities do normally participate in the international arena, while it also begins to establish more clearly the scope of this participation, on the other. First of all, with very few exceptions, most notably Belgium and to a lesser extent Bosnia and Herzegovina, autonomous entities do not engage in traditional 'foreign policy', but rather have limited capacities of pursuing policies in the international arena in areas in which they have substantive competences to make decisions independently of, but within the existing constitutional framework of their metropolitan state. This situation mirrors a process that has been ongoing at the level of central governments for at least a decade: foreign policy is no longer the exclusive provenance of foreign ministries. Rather, as a result of, among others, globalisation and intensifying regional integration, subject ministries have come to develop their own foreign policies, most notably in the areas of economic and trade policy, environment, agriculture and even in more traditionally domestic policy areas such as justice and home affairs. For example, Nakhchivan/Azerbaijan has a agreements with other states for which it is a transit point of oil and gas from Iran towards the Caucasus. The Inner Mongolia Autonomous Region/China and the U.S. state of California have agreements promoting cooperation in the areas of trade, business, culture, and education. Similarly, Ningxia/China has built up trade relations with more than 60 countries and regions around the world. Macao/China continues to develop relations and agreements with foreign states and regions, as well as international organizations, primarily in relation to its competences for economic, trade, financial and monetary, shipping, communications, tourism, cultural, science and technology, and sports policies. Friuli Venezia Giulia/Italy has joint projects with four new EU member states—the Czech Republic, Hungary, Poland and Slovenia—according to which the sides exchange experts on various technical aspects of public administration. Gagauzia/Moldova and Tatarstan/Russia signed an Agreement on Trade, Economic, Scientific, Technical and Cultural Cooperation in May 1999. Macau/China has maintained Economic and Trade Representations in Lisbon, Portugal and Brussels, Belgium. A trade and cooperation agreement

² The status of some entities is contested.

between Macau and the European Community (now EU) was signed in 1992, when Macau was still a Portuguese colony. Interestingly, the Chinese government facilitated and encouraged further participation of Macau in the international arena after it regained sovereignty, establishing a Forum for Economic and Trade Cooperation between China and Portuguese-Speaking Countries convened triennially in Macau. The Autonomous Regions of Madeira/Portugal and the Azores/Portugal are able to participate in the negotiation of international agreements that Portugal intends to enter into and have the right to establish cooperative relations with foreign regional entities.

Secondly, criterion (iv) also points to the fact that there are a number of cases in which autonomous entities enjoy special opportunities to engage in cross-border cooperation: this is particularly the case in instances where there are ethnic kin in (neighbouring) states or actual kin-states (states in which members of the same ethnic group form the titular nation). This practice is relatively well-developed and institutionalised in Europe: Northern Ireland, South Tyrol, Åland Islands, Gagauzia, Crimea, Republic Srpska, to name but a few, have all established at times quite extensive forms of such cross-border relations. For example, South Tyrol/Italy has maintained very strong relations with Austria throughout the post-1945 period, and Austria has played a constructive role in resolving the conflict between the province and the Italian government over the implementation of South Tyrol's autonomy. Even before Austria's accession to the EU in 1995, extensive cross-border co-operation had developed, and in January 2006 a petition signed by 113 of 116 German-speaking mayors in South Tyrol was presented to the Austrian government requesting further "protection and guardianship". The 1998 Agreement on Northern Ireland, which is part of a new Anglo-Irish Treaty puts cross-border relations between the region and the Republic of Ireland on a firm international legal footing and also provides the framework for broader cooperation among regions and states in the British Isles. Further to the east, the Governor of Gagauzia/Moldova visited Turkey in March 2006 and met with senior Turkish officials, including State Minister Beşir Atalay and Energy and Natural Resources Minister Hilmi Güler to discuss Turkey's support for Gagauzia.

Within the framework of the EU, regional cross-border cooperation is also highly developed and institutionalised, including through various EU-sponsored cross-border projects, such as INTERREG. For example the autonomous region Aosta Valley/Italy participates in the Western Alps Working Community COTRAO

(Communauté de travail des Cantons et des Régions des Alpes Occidentales), which plays also an important role for cultural and educational cooperation between local authorities across borders. Together with its neighbouring French region of Rhône-Alps, as well as eleven other European regions, Valle d'Aosta also participates in INTERREG III B Mediterraneo Occidentale involving regions from six different EU member states and Switzerland. The region is also part of a smaller Italo-French inter-regional group, ALCOTRA (Alpi Latine - Cooperazione Transfrontaliera).

Finally, criterion (iv) emphasises that autonomous entities occasionally enjoy membership rights in specific international bodies. These can be regional organisations (such as the Nordic Council which includes the Åland Islands/Finland, Faroer Islands/Denmark and Greenland/Denmark), subsidiary bodies of international or regional organisations (such as the Committee of the Regions which is an advisory body within existing EU structures and contains virtually all autonomous entities in EU member states, as well as a wide range of other territorial entities from cities to federal states), and international non-governmental organisations (such as the European Bureau for Lesser Used Languages, which lobbies on behalf of Europe's minority languages, or UNPO, the Unrepresented Nations and Peoples Organization). In addition, autonomous entities are frequently given opportunities to make representations before regional and international organisations, such as the UN and EU whenever these, or their subsidiary organs, deal with issues relevant to autonomous entities (such as the European Parliament, the Parliamentary Assembly of the Council of Europe, and UN Human Rights Committee, etc.). The example of the Nordic Council, that allows formal membership of autonomous organisations as equals of metropolitan states is not unique, and there are a few other such examples, as the case of Hong Kong/China illustrates. Hong Kong maintains its own delegation in several international organizations alongside China: Asia-Pacific Economic Cooperation, Asian Development Bank, Bank for International Settlements, Copyright Clearance Centre, International Olympic Committee, World Meteorological Organization, and the World Trade Organisation. Hong Kong is a corresponding member of the International Organization for Standardization, an associate member of the International Maritime Organization and the United Nations Economic and Social Commission for Asia and the Pacific and maintains a branch of Interpol. The autonomous entity also sends its own delegation to international sporting events, such as the Olympic Games.

For the most part, thus, autonomous entities participate in the international arena in areas in which they have substantive policy competences. This often mostly includes both policy areas that are symbolically and practically important for the preservation, development and expression of an ethnic group's identity (e.g., culture, education, language policy, religious practice, etc.) and areas in the general purview of territorial governments (e.g., economy, environment, social policy, rural and urban development, etc.).

3. Opportunity and Interest Structures

Having the legal ability to pursue policies in the international arena and actually doing so are, of course, two entirely different things. The degree to which autonomous entities are participating in the international arena depends essentially on how their opportunity and interest structures are shaped. Opportunities in general have increased for non-traditional international actors like autonomous entities (through globalisation and its associated advances in communication, travel, trade, etc., through a related proliferation of regional and international governmental and non-governmental organisations, and through the growing number of issues that can no longer be handled successfully locally or even nationally). However, this general trend says very little about the actual *policy capacity* that autonomous entities have to pursue policies in the international arena. Advanced regions, like Macau, Hong Kong, South Tyrol, Northern Ireland, Catalonia, the Åland Islands or the Belgian regions, obviously have both the human and material resources to do so which are lacking in less developed regions, including Gagauzia/Moldova, Bougainville/PNG, ARMM/Philippines, or the South and North Atlantic Autonomous Regions/Nicaragua.

In addition, interest structures also shape the way in which autonomous entities prioritise their international efforts, i.e., how they allocate existing resources among areas of possible engagement. Thus, for example, an autonomous entity like South Tyrol is particularly active in its relations with neighbouring Austria (of which it was part until 1919) and within various EU-sponsored INTERREG programmes as this addresses both identity and economic issues. Northern Ireland has similarly intensive relations with the Republic of Ireland (to satisfy the particular Irish dimension of the conflict), within the framework of the Council of the Isles (linking all devolved regions of the UK, the Channel Islands, the Isle of Man and the Republic of Ireland), but also across the Atlantic into the US and Canada to maintain and utilise diasporic relationships. Hong Kong and Macau, on

the other hand have maintained a global network of trade missions and representations that they built up during their time as British and Portuguese colonies, respectively, and that facilitate the existence and expansion of their global economic links.

Example 1: Flanders/Belgium

Belgium has a total of six governments (French Region, French-speaking Community, German-speaking Community, joint Flemish-speaking Region and Community, Bilingual Region of Brussels, Federal Government), which are equal to each other, but with strictly defined areas of mostly exclusive and very few concurrent competencies.

As there is significant convergence between the internal and the external competencies of the federated entities (i.e., the three regions), these governments have to manage their competencies in day-to-day domestic policy and, as far as applicable, in the international arena. Representing both the Flemish-speaking Region and Community, the government of Flanders has competencies both of a corporate nature (related to Flemish-speakers) and a territorial nature (related to the territory of Flanders). This encompasses an extremely wide portfolio of policy areas, including language policy, cultural policy, education, welfare, as well as economy, environment, employment, infrastructure, etc. This means that in all these areas the government of Flanders can:

- Conclude treaties with third parties
- Enjoy diplomatic representation abroad
- Have direct presence and input in 'multilateral' negotiation delegations
- Participate formally in the process of formulating the substance of the foreign policy-position of the Belgian federation in policy areas for which they have been assigned competence.

As far as 'exclusive regional competencies' are concerned, the Belgian federal government has only a coordinating role. As far as concurrent competences are concerned, however, the federal government has both a coordinating role and a stake in the formulation of the substance of foreign policy. Thus, even though the federal government formally retains its lead role in the area of foreign policy, the government of Flanders enjoys maximal foreign policy autonomy unless it undermines the overall coherence of Belgian foreign policy.

As a result of these far-reaching competences, Flanders has more than 100 different representatives abroad, including diplomatic representatives in Germany, France, United Kingdom, The Netherlands, USA, South Africa (also covering Mozambique, Namibia, Botswana, Lesotho, Swaziland) and Austria (also covering Hungary and the Czech Republic). There are, in addition, 76 trade and commercial attachés abroad, 11 branches of the Flemish Tourist Office, and seven branches of the Flanders Foreign Investment Office.

Example 2: Catalonia/Spain

The Spanish system of devolution offers the option of broad powers to its autonomous communities. The constitution specifies competences specific to the autonomous communities, as well as powers that remain exclusive to the central government. However, it is possible that some of the legislative competences retained by the central state can be delegated to the autonomous communities as well, provided the latter desire this and delegation is feasible. Thus, while the Spanish system in theory is one of symmetric devolution, in practice there is a certain degree of asymmetry that has resulted in some communities holding far more extensive powers than others, among whom Catalonia is the one with the greatest degree of autonomy in a very wide range of policy areas.

Even though the Spanish constitution explicitly retains competence in international relations for the central government, the devolution of powers to Catalonia in areas such as economic development, education, tourism, etc., has meant that external activities in these areas have become a natural task for the Catalan government in order to discharge its functions effectively.

Within the Presidential Department, the Directorate General for International Projection of Sport is charged with the promotion of international activities for Catalan sport and the facilitation of international competitions for Catalan sports teams. The Ministry of Economy and Finance's Directorate General for Trade and Directorate General for Tourism have tasks including the international promotion of Catalan industry and tourism, while the Ministry of Education and Universities has a Directorate General for Universities which is responsible for, among others, the integration of Catalan universities into the European space for higher education.

Catalonia's participation in the international arena also extends to the conclusion of specific agreements with other entities and organisations, including, for

example, Scotland, California, Kyonggi Province (Korea), the Centre National de la Recherche Scientifique (National Center for Scientific Research, an administrative branch of France's Ministry of Research), and the National Assembly of Quebec.

Part of Catalonia's participation in the international arena specifically involves the promotion of relations with Catalan communities outside Catalonia (within Spain, but also in France and involving the Catalan diaspora around the world). In this sense, Catalonia assumes, almost uniquely, the role of a patron- or kin-state for co-ethnics outside its territory, while the reverse is normally the case: autonomous entities benefit from relations with kin-states (e.g., Northern Ireland/Republic of Ireland; South Tyrol/Austria; Quebec/France; Macau/Portugal; Hongkong/UK, etc.).

Example 3: Scotland/United Kingdom

The United Kingdom operates an asymmetric system of devolution. Three regions—Northern Ireland, Scotland and Wales—have distinct levels of competences that they can exercise autonomously from the government in Westminster, while England has no devolved powers. With devolution in Northern Ireland currently on hold, and devolution in Wales fairly limited, focusing on Scotland provides the opportunity to explore another example of how an entity with fairly substantive autonomous powers domestically participates in the international arena.

Scotland's powers are quite extensive. In fact they are only defined in UK legislation through an enumeration of so-called 'reserved matters', that is, policy areas in which the central government retains exclusive competences. These reserved matters include most importantly the Union of England and Scotland, foreign affairs and defence. The phrasing of the article that reserves foreign affairs for the government in Westminster refers to 'relations with territories outside the United Kingdom, the European Communities (and their institutions) and other international organisations, regulation of international trade, and international development assistance and co-operation' while placing Scotland under the obligation to observe and implement international obligations, including those under the Human Rights Convention and Community law. Thus, in contrast to Flanders and Catalonia, while Scotland has comparable domestic policy capacities, its foreign policy autonomy is extremely restricted.

Scotland's presence and participation in the international arena is consequently more limited. It includes the Scottish Executive EU office in Brussels, a US office operating out of the British Embassy in Washington, D.C., and a recently established office in China, based in the British Embassy in Beijing. Scottish Development International has operations in 17 countries around the globe. Finally, the Scottish Qualifications Agency has offices in Beijing.

The Scottish Executive's priorities in the area of 'external relations' are thus equally constrained and include the promotion of Scottish devolved policy interests in and beyond the EU, the building of links with regions and countries in and beyond the EU, the promotion of a positive image of Scotland overseas, and, interestingly, the effectiveness of Scotland's relations with the UK Government.

The main achievements of the Scottish Executive are within Europe: co-operation Agreements with Catalonia; Tuscany; North Rhine-Westphalia, and Bavaria, its participation in formal organisations of regional authorities, such as the Committee of the Regions, the Congress of Local and Regional Authorities of Europe, the Groups of Regions with Legislative Powers, and the Conference of Peripheral Maritime Regions.

4. Limits and Opportunities for Constructive Conflict Management

To what extent can autonomous entities' participation in the international arena contribute to constructive conflict management? Given that autonomy will have been adopted in such cases as a way to prevent or settle conflicts between a specific territorially-defined community and its central government, one can safely assume that both sides are committed to a peaceful and political resolution of their differences. If an autonomy regime has been agreed between them as a possible means to achieve this, one should also assume that both sides are committed to making such an arrangement work. In this situation then, the participation of an autonomous entity in the international arena is both a consequence of granting autonomy and in several policy areas most likely a condition of the success of the conflict settlement. This involves both symbolic dimensions of recognising the complete nature of the devolution of powers from the central government to the autonomous entity and material dimensions of enabling autonomous entities to pursue policies in which they have competences to the fullest extent of their remit. Denying autonomous entities in such cases any participation in the international arena is likely to undermine the autonomy regime and may thus endanger the conflict settlement as a whole. Yet, as the

three case studies above have shown, the degree to which autonomous entities will pursue their own 'foreign policy' depends both on their interest and opportunity structures, on the way in which they prioritise international engagements and on the degree to which the central government actually represents the interests of autonomous entities abroad (i.e., the degree to which the latter can contribute to shaping the central government's foreign policy on specific issues relevant and important to them). Participating in the international arena does not mean that autonomous entities can pursue policies without regard of the broader constitutional framework of which they remain a part. This implies that there need to be proper mechanisms of consultation and coordination between autonomous entities and central governments on matters of international affairs; the broader the 'foreign policy' competence of autonomous entities is, the more effective these mechanisms need to be.

The foregoing presumes that both sides—autonomous entity and central government—are committed to maintain the territorial integrity of their existing state, if even only for a specified interim or transitional period. If this is not the case, i.e., if independence remains the firmly established goal of the autonomous entity, allowing it to participate in the international arena is unlikely to change this attitude, nor will denying international engagement make independence a less feasible option.

The bottom line, therefore, is this: autonomous entities' participation in the international arena is a function of the competences that they acquire through a specific autonomy arrangement and need to be treated as a logical extension thereof in order to make the overall conflict settlement viable and attractive.

5. Conclusion: Paradiplomacy as a Challenge for Existing States?

Foreign policy is normally one of very few areas, along with defence and monetary/fiscal policy, that is excluded from the devolution of competences to autonomous entities. Consequently, it is not surprising that existing states and their governments often view with a certain degree of suspicion the participation of autonomous areas in the international arena. They see this often as potentially undermining their sovereignty and at times in conflict with the pursuit of the broader national interest. These concerns are not without justification, especially in situations in which the ultimate aim of the autonomous entity is independent statehood. However, where the borders of existing states are not contested, these fears are often exaggerated and often groundless.

Autonomous entities' participation in the international arena in most cases does not contravene national foreign policy objectives, in fact, it often complements them and benefits from them. As external/international relations are now part and parcel of most individual government portfolios, foreign policy is no longer the exclusive domain of foreign ministries. The three examples of Flanders, Catalonia and Scotland furthermore indicate that, regardless of the degree of foreign policy autonomy enjoyed by autonomous entities, central governments retain authority over the overall direction of autonomous entities' participation in the international arena, at a minimum by ensuring coherence in foreign policy. At the same time, autonomous entities will avail themselves of opportunities to participate in the international arena in different ways. The example of Flanders/Belgium shows the degree to which autonomous entities can make maximum use of opportunities available to them in pursuing their own foreign policy and shaping the foreign policy of their central government. At the other end of the spectrum, the case of Scotland/UK demonstrates how the government of an autonomous entity can limit its participation in the international arena such that it prioritises certain areas and otherwise relies on its central government to represent its interests abroad.

Above all, the participation of autonomous entities in the international arena indicates that the very notion of sovereignty has fundamentally changed. It can no longer be conceptualised in the exclusive state-only terms of the Westphalian system. For states to enjoy sovereignty to its fullest possible extent and for their populations to benefit from it, states have to share their powers with other players in the international arena. The example of paradiplomacy, however, also clearly indicates that states remain the ultimate bearers of sovereignty: paradiplomacy is, at best, a competence devolved to autonomous entities and hence it is the sovereign state that decides how much of its power it shares.