GOALS, CAPABILITIES, AND INSTRUMENTS OF PARADIPLOMACY BY SUBNATIONAL JURISDICTIONS

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Abstract
This paper defines paradiplomacy as ‘a political entity’s extra-jurisdictional activating targeting foreign political entities’. Because paradiplomacy is specifically an example of political interaction between unequal partners, taking place outside of the internationally accepted political sphere, it is by nature a contested practice. This paper argues that subnational jurisdictions and sovereign states have inherently differing policy objectives and that paradiplomacy is best capable of achieving policy objectives when it manages to either slip beneath the political radar of sovereign states or acquire the de facto concession of sovereign states. For this reason, the more sophisticated paradiplomatic tools (such as pseudo-embassies) are not necessarily more effective in achieving policy objectives than are less sophisticated tools (such as participation in international networks). Successful paradiplomatic practice requires a balance of developing political structures and of pursuing concrete policy objectives. The aims of subnational jurisdictions seeking greater autonomy or independence could be furthered through the construction of stronger networks of like-minded subnational jurisdictions in Europe and internationally.

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Biography
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I. Introduction
Paradiplomacy can be a difficult subject to discuss, not least because there is sometimes an understandable reluctance to admit that one is engaging in it. This chapter will address what paradiplomacy is, how it is undertaken, and why it might be important. It will also consider why national governments might be opposed to the practice of paradiplomacy by their subnational jurisdictions. It is only by facing up to what paradiplomacy actually entails that we can
understand what it can and cannot offer to localities and regions that are pursuing greater self-determination.

As the structure of governance in Europe and the world as a whole grows more complex, new opportunities are arising for enterprising subnational jurisdictions to increase their powers of self-determination (Bartmann, 2000; Keating, 1999). For some, full independence might be the ultimate ideal, while for others, increased power might be an end in itself. Either way, paradiplomacy represents a path toward gaining greater standing and influence in the international community. It is not a path, however, that is guaranteed to lead to success, and in some cases, paradiplomacy can actually hinder a jurisdiction’s quest for greater international recognition. In addition, as is always the case, a policy instrument is only as good as the policies it advances, and effective paradiplomacy holds out the ability to effectively produce bad results, which is a particular risk in the case of subnational jurisdictions that lack substantial prior experience on the world stage.

II. Defining paradiplomacy

We will begin with a brief definition of the concept of paradiplomacy and argue for an understanding of paradiplomacy as a set of instruments for achieving certain symbolic and policy-oriented objectives. In this chapter’s broad definition, paradiplomacy is a political entity’s extra-jurisdictional activity targeting foreign political entities.

In this context, an ‘entity’ is a unit of government: Thus, Catalonia is a subnational entity, Spain is a national entity, and the European Union (EU) is a supranational entity. Spain is also a higher-level entity relative to Catalonia, yet Spain is simultaneously a lower-level entity relative to the EU.

The above definition rests on an understanding that different levels of government possess different levels of ‘jurisdictional capacity’, i.e. different degrees of competence “to pass laws, build effective administrative processes, facilitate inward capital flows, encourage education and support the development of a climate conducive to economic growth” (Baldacchino, 2002, 349). ‘Extra-jurisdictional’ activity is thus activity exceeding a political entity’s de jure jurisdictional capacity, representing a de facto expansion of the entity’s powers.

This definition furthermore specifies that paradiplomacy must target foreign political entities, i.e. must aim to influence subnational entities in other countries, foreign sovereign states, etc. When, for instance, a subnational entity exercises de facto powers to encourage economic development by participating in an international policy network or entering into a twinning agreement, this can generally be regarded as paradiplomatic activity inasmuch as it targets foreign entities. When, in contrast, a subnational entity exercises de facto powers to encourage economic development by providing financial support to key business actors within its own territory, this cannot be regarded as paradiplomacy inasmuch as the target of the activity is within the entity’s jurisdiction (even if the methods being used are beyond the entity’s de jure jurisdictional capacity).

It can furthermore be useful to distinguish between ‘paradiplomacy’ and ‘public diplomacy’. The former targets foreign political entities *per se* whereas the latter target foreign publics in a more general sense. An important reason for this distinction is that, unlike paradiplomacy, public diplomacy is not usually extra-jurisdictional, i.e. does not exceed a political entity’s *de jure* jurisdictional capacity: Sovereign states tend not to place legal limits on the ability of their subnational entities to address foreign publics through tourism campaigns, overarching place branding initiatives, *etc.* Of course, the distinction between paradiplomacy and public diplomacy can be more theoretical than actual, for not only are members of formal governments also themselves members of foreign publics, but the opinions of members of the general public can influence the stances of their own governments. Depending on how public diplomacy is undertaken, it could even implicitly seek to influence the policy of foreign entities (rather than just the ideas of their publics).

We should note that although the present paper focuses on paradiplomacy undertaken by subnational entities that are either moving toward full independence or are seeking to expand their jurisdictional capacity, many of these same activities are also undertaken by national entities (sovereign states). There are cases in which national entities strive for goals that are difficult to achieve through formal diplomacy, causing engagement in informal diplomacy, which can often take the same forms as the types of paradiplomacy discussed here (Grydehøj, 2014).

**III. Jurisdiction as a zero-sum system**

There is a certain unwillingness within the scholarship to use the term ‘paradiplomacy’ itself. It is thus that Criekmans (2010a, 1-2) seeks to avoid contention by referring to ‘the academic study of what was once called ‘paradiplomacy’,” pointing out that “Some scholars are not fond of the term paradiplomacy because it suggests an element of conflict between the national and subnational policy levels, and implicitly assumes ‘incompatible interests’.” It is understandable that one would wish to avoid the suggestion of conflict in paradiplomacy, especially because such a suggestion could prompt attempts by higher-level entities to reign in the activities of lower-level entities. Nevertheless, subnational entities that are moving toward independence or seeking to enhance their existing powers should be wary of arguments to the effect that paradiplomacy does not necessarily involve the pursuit of objectives that are incompatible with the interests of higher-level entities.

Although jurisdictional capacity has always been negotiated and contested within and between sovereign states, the rise of supranational and international entities and authorities has further complicated the delineation of powers. Both paradiplomacy and internally oriented expansions of jurisdictional capacity could prove worthwhile for a subnational entity seeking outright independence or greater self-determination, and both types of activities necessarily challenge higher-level entities’ notions of the powers that the subnational entity possesses. The very existence of a relevant higher-level entity results in at least a qualitative weakening and at most a quantitative decrease in the jurisdictional capacity of its constituent entities. Jurisdiction is a zero-sum system in the sense that one political entity’s accrual of *de facto* or *de jure* jurisdictional capacity can only result from another entity’s absolute or relative loss of this same

capacity. For instance, just as the increasing power of the sovereign state historically weakened the capacity of local communities to manage their own fisheries, the creation of the EU’s Common Fisheries Policy weakened the capacity of the EU’s constituent sovereign states to manage their own fisheries. The existence of EU policies on fishing, agriculture, manufacturing, labour, etc. does not mean that sovereign states no longer have any power over these areas, but it does mean that sovereign states no longer have exclusive or superior de jure power over these areas. Such losses or gains of jurisdictional capacity are neither inherently ‘good’ or ‘bad’ nor are even necessarily resisted by the entities that lose out: For instance, the EU’s constituent national entities might ideally wish that they could independently determine all aspects of fisheries policy for themselves, but given that this would involve exerting extra-jurisdictional control over other sovereign states that make use of European waters (which would be either impossible or unpleasant in practice), an EU Common Fisheries Policy represents a palatable alternative.

IV. Competing national and subnational interests

All types of de facto expansions of jurisdictional capacity by subnational entities represent a challenge to the authority of higher-level entities since they involve the exercise of powers that are legally the reserve of these higher-level entities. Thus, while the results of paradiplomacy by a subnational entity may not necessarily be contrary to the interests of the sovereign state, the exercise of the paradiplomacy is itself a transgression of the sovereign state’s authority. From the perspective of the sovereign state, there is good reason for the sovereign state – and not its constituent entities – to wield diplomatic authority because it is only the sovereign state that is responsible for advancing the objectives of the state as whole.

Let us consider an example from the archipelago of Shetland, a subnational entity of Scotland, which is itself a subnational entity of the United Kingdom (UK). In the 1990s and early 2000s, Shetland’s local government used both internally oriented and paradiplomatic de facto expansions of jurisdictional capacity to strengthen its commercial fishing industry in the face of rising supranational legal restrictions on fishing, increased competition, and declining fish stocks. The UK quite concretely benefited from the relative success of these local fishing-promotion activities because a portion of the economic advantage that Shetland gained presumably came vis-à-vis foreign actors as Shetland’s share of the fish catch increased relative to what it might have otherwise been. In other words, there was a direct relationship between Shetland fishermen in particular making more money and UK fishermen in general making more money (since Shetland fishermen are also UK fishermen).

The situation was, however, problematic, for not all of the value added due to these industrial promotion activities in Shetland was subtracted from foreign actors. With regards to a particular local government programme, in fact, fishermen from elsewhere in Scotland complained that Shetland fishermen possessed an unfair advantage (Grydehøj, 2013a)—in other words, that the increased competitiveness of the Shetland fishing industry undermined the competitiveness of the Scottish fishing industry as a whole. It is unlikely that either the devolved Scottish government or the UK government would ever have been inclined to undertake the same kinds of activities in Shetland alone as did the local authorities in Shetland. This is because the accrual
of value by one subnational entity *vis-à-vis* other subnational entities that are constituents of the same national entity is not in itself a relevant goal for a sovereign state.

It is not *in itself* a relevant goal, but it could be a relevant goal from the sovereign state’s perspective in certain circumstances. For instance, the sovereign state might seek to redistribute wealth within its territory in order to increase national economic equality: It might be deemed better to have numerous small fishing industries scattered around the country than one very strong industrial centre. Or in contrast, a sovereign state might seek to reinforce a locality’s national dominance in a particular industry in order to enhance its – and thus the country’s – international competitiveness, even if this meant weakening actors in the industry in other localities within the country: It might be deemed that numerous small industrial centres were unsustainable and that more value would be produced by nurturing specialisation and economies of scale in one very strong industrial centre (Grydehøj, 2013b).

There is thus a tension between the interests of the sovereign state as a whole and the interests of its constituent entities. It could be argued that the more responsible and responsive a sovereign state is, the greater the likelihood that it will act against the interests of some of its subnational entities relative to others. Thus, whereas any local government activity could either intentionally or unintentionally strengthen the national welfare, determinations as to what is in the best interests of the sovereign state as a whole can only really be made at the national level.

In most cases, paradiplomacy by subnational jurisdictions is not remarked upon at the national level. For instance, when the local government of the city of Copenhagen undertakes paradiplomatic activity regarding climate change even though climate diplomacy is a national responsibility, there is no complaint, for Denmark’s national government deems Copenhagen’s activities to be in the national interest despite the Copenhagen government’s focus on its own interests. By the same token, when the local government in Shetland engages with a foreign head of state in order to flatter local cultural nationalist sentiments, neither the Scottish nor the UK governments deem this to be a threat—in part, we may assume, because they are aware that the foreign state in question does not regard the engagement in the same light as does Shetland.

Conflict only arises when higher-level entities feel that their own authority is threatened by the actions of lower-level entities. In the case of paradiplomacy, the situation can be particularly acute if a strong nationalist sentiment exists in the subnational entity and if this entity is regarded as using paradiplomacy as a tool for gaining support for independence or for eventually rendering independence *fait accompli*. From the perspective of this volume, such paradiplomacy is morally justified since the subnational entity in question is acting like a sovereign state because it feels it ought to be regarded as a nation. The argument that the paradiplomatic activities of an emerging nation are harmful to the sovereign state in which this nation is currently encompassed is thus missing the point: Paradiplomacy is being used to *de facto* enact nationality and secure national interest in the *de jure* absence of a relevant nation-state.

V. Paradiplomacy in practice
There has been a tendency to view paradiplomacy progressively, as taking place in waves of increasingly sophisticated political activity. Criekmans (2010b, 45-46), indeed, breaks down “the full spectrum of diplomatic instruments” into the following:

a) *Ius legationis* or political representation abroad;  
b) *Ius tractandi* or treaty-making power;  
c) Other agreements of a certain formalized nature: (political) declarations of intent and/or cooperation agreements, transnational contracts and cultural agreements or partnerships;  
d) The development of own programmes of assistance and sharing of know-how: bilateral programmes, programmes on cross-boundary cooperation, programmes that want to bring the civil societies of the region and other regions/countries together, OR multilateral programmes;  
e) Other forms of participation in multilateral frameworks and organizations: observing and participating in (technical) committees, the creation of OR participation in funds within multilateral organizations, becoming an associate member of multilateral organizations;  
f) Participation in other formal or informal networks;  
g) Developing a public diplomacy, both domestic and international.

Criekmans’ list suggests descent (with the items at the top being more politically sophisticated than those at the bottom) and feeds into the idea that the more complex or sophisticated the form of paradiplomacy, the more advanced the paradiplomatic project in question.

This assumption might be an instance of confusing cause with effect. We will consider this by discussing the most formally sophisticated paradiplomatic instrument, namely political representations (hereafter, *pseudo-embassies*), both within the sovereign state (such as the Greenlandic and Faroese representations in Copenhagen) and outside it (such as Scotland House in Brussels and the Québec representations around the world). In many cases, such pseudo-embassies are reflections of the prior success of a nationalist movement, not of its ability to achieve paradiplomatic success on its actual policy objectives. These pseudo-embassies are striking precisely because they are often accepted as at least semi-legitimate by the sovereign states to which they are subordinate and, as a result, by other sovereign states.

This, however, is not always the case: An interesting counter-example is offered by a *de facto* but unrecognised state, the Turkish Republic of Northern Cyprus (TRNC), which operates pseudo-embassies in a range of countries. With the exception of the TRNC embassy in Ankara, however, these pseudo-embassies are completely unrecognised by their host states since the Greek Cypriot-dominated government that controls the south of Cyprus (the Republic of Cyprus) is regarded by all countries except for Turkey as the only legitimate authority on the island. It is precisely because the TRNC’s pseudo-embassies have no formal legitimacy that they are capable of undertaking extremely sophisticated paradiplomatic activity. TRNC pseudo-embassies can offer passport services, birth certificates, and other services that have the trappings of true ambassadorial work—services that are closed to many pseudo-embassies that are set up with the concession of the sovereign state. This is not to say that having the concession of one’s sovereign...
state is a bad thing, but having this concession does mean that one is obliged to play by the sovereign state’s rules. Such a situation may be more palatable for subnational entities like Scotland, Greenland, and Faroe that have won from their sovereign states legitimate pathways to future independence (should they choose to follow them) than it is for a subnational entity like Catalonia, which possesses a delegation to the EU but no legal trajectory toward independence.

Of course, in discussing pseudo-embassies, one must consider that instrumental sophistication is in itself no guarantee of political effectiveness. The TRNC’s unrecognised pseudo-embassies undertake high-level activities yet are of little value to the TRNC in terms of achieving policy objectives that involve engagement with foreign states since the very fact that the pseudo-embassies are pretending to be embassies without the concession of the international community means that national entities must avoid engaging with them. It is instead through its public diplomacy efforts that the TRNC makes much of its paradiplomatic impact: Although activities aimed at convincing people that North Cyprus is an ideal place to go on holiday or attend university are targeted primarily at foreign publics (rather than foreign political actors), they can indirectly affect the opinions – and ultimately, policies – of foreign political actors as well (Grydehøj, 2012, 190).

How then can subnational entities seeking outright independence or greater self-determination accomplish the most in practical terms? What is most important: building the structures of independence or achieving policy goals? There is no clear-cut correct answer because different kinds of paradiplomatic activity can achieve different kinds of results. For instance, even the most successful of pseudo-embassies by subnational entities are at some level symbolic acts: They can be bases from which highly effective paradiplomatic activity (for instance, trade promotion or meetings with foreign politicians) can take place, but such activity could theoretically have been undertaken elsewhere, for such pseudo-embassies lack the privileges that the international community grants to fully fledged, recognised embassies. This does not, however, mean that pseudo-embassies of this sort fail to add value to the paradiplomatic activities they host, for their very use as sites of paradiplomatic activity demonstrates a subnational entity’s de facto capacity to undertake diplomacy. In other words, by imitating embassies, such pseudo-embassies could not only potentially directly enhance the efficacy of the paradiplomatic activities they host but also indirectly enhance the willingness of foreign actors to regard these activities as legitimate.

This, however, is just a potential, not a given, for if a pseudo-embassy is viewed not simply as less than fully fledged (such as with the pseudo-embassies of subnational Québec and unrecognised Taiwan) but as instead wholly illegitimate (such as with unrecognised TRNC), then the paradiplomatic activities it carries out could be further delegitimised as a result. The pseudo-embassy’s host country (and typically the sovereign state of which the subnational or unrecognised entity is arguably a constituent) must first concede to at least a degree a legitimacy before the pseudo-embassy can have any kind of positive effect. In the absence of such a concession, these ‘guerrilla embassies’ are possibly counterproductive: Their symbolic force draws attention to the paradiplomatic nature of paradiplomatic activities, which is a good thing if
other entities wish to engage in paradiplomacy with you but is a bad thing if they wish to avoid giving the impression of engaging in diplomatic activity with a non-existent or illegitimate state.

Fortune can thus be said to favour the fortunate: The highly respected pseudo-embassies of Greenland and Faroe in Copenhagen share a building with the altogether official Icelandic embassy and are recognised as undertaking (limited) ambassadorial functions via Denmark’s and Iceland’s concession of their legitimacy. This in turn enhances the power of the activities that Greenland and Faroe undertake from these premises.

VI. Toward a stronger system of European paradiplomacy

Subnational entities and unrecognised states are not necessarily barred from effectively engaging in paradiplomacy if they lack prior international support. As noted above, the fact that certain paradiplomatic instruments are less sophisticated than others does not necessarily make them any less effective. Despite the international community not regarding it as a legitimate candidate for future independence, Shetland has had considerable paradiplomatic success in practical terms, perhaps precisely because its paradiplomatic activities on foreign soil have been largely shorn of symbolic force. Because Shetland lacks a significant independence movement and because its government largely leaves its cultural nationalism at home when it undertakes activity abroad, this subnational entity’s involvement in international fishing disputes, trade shows, tourism and culture networks, etc. have not raised complaint. None of the UK’s three crown dependencies (the Isle of Man, Guernsey, and Jersey) are part of the EU, and none have trajectories toward full independence, yet all have shown themselves capable of engaging with the international community at a high paradiplomatic level in terms of financial negotiations as well as competently engaging in public diplomacy to advance positive place brand images of themselves. The lack of outright nationalism in these paradiplomatic efforts – that is, the lack of a challenge to the de jure jurisdictional status quo – make them palatable to the higher-level entities involved.

It is interesting to consider in this context that many of the most autonomous European subnational entities (crown dependencies, special or overseas territories, outermost regions, etc.) remain outside of the EU. Exceptions include Åland, Gibraltar, and (from a certain perspective) Scotland. This preference for remaining outside of the EU presents a challenge for subnational entities within the EU that are seeking substantially increased self-determination rather than outright independence. The problem is more than a relative inability to appeal to precedent; it also limits a subnational entity’s ability to seek support from and engage diplomatically with peers.

Those who aim to strengthen the ability of European ethnic and cultural groups to pursue self-determination should consider ways of strengthening the platform for facilitating subnational paradiplomacy on a European level. The emergence of a stronger network of highly autonomous subnational entities within Europe (not necessarily limited to the EU) could help legitimise such paradiplomacy as well as grant it additional effectiveness through economies of scale. Greater international cooperation between subnational entities at all levels could be of wide benefit: It could serve as a halfway house for subnational entities seeking full independence, as a useful
sphere of activity for those highly autonomous subnational entities that are content with their present de jure jurisdiction, and as a launching pad for aspirational subnational entities that presently lack but are striving for enhanced jurisdictional capacity. In all cases, it could give subnational entities the opportunity to simultaneously develop governmental structures that are conducive to independence and greater self-determination as well as pursue the practical policy objectives that presumably play a significant role in the desire for independence or greater self-determination itself.

References


