

# Federalism, Paradiplomacy and Foreign Policy: A Case of Mutual Neglect

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## Abstract

Paradiplomacy, federalism and international negotiation are increasingly prevalent phenomena that require more theoretical attention. Successful mobilization of non-central governments has increased their relevance on the international stage. The rise of paradiplomacy complicates conditions for both international negotiation and the formulation of foreign policy in federal regimes. Westphalian state diplomacy is finding it increasingly difficult to cope with the proliferation of ad hoc and informal arrangements that bind non-central governments. The international arena is inhabited by an ever larger number of players that sometimes have significant autonomy from the central state.

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## Keywords

paradiplomacy – federalism – international negotiation

International multilateralism and negotiations have increased substantially since the end of the Second World War. In the late nineteenth century, there were no more than one or two international conventions or conferences a year involving official representatives. Today, some 9,000 such events are held annually (Union of International Associations 2011). Between 1946 and 2006, the number of international treaties rose from 6,351 to more than 158,000 (United Nations 2012). Trade negotiations have followed the same upward trend. On a multilateral level, the General Agreement on Tariffs and Trade (GATT) originally comprised only 44 members; in 2016 the World Trade Organization (WTO) had 164. The number of preferential trade agreements (PTA) has risen consistently, quadrupling in the 20 years after 1995, with more than 300 PTAs brought to the WTO in 2015. In addition, as of 2016, more than 625 notifications of regional trade agreements, like the North American Free Trade Agreement (NAFTA), had been received by the WTO, of which 267 are currently in force.

In parallel, the number of countries in the world with federal systems or decentralized structures of government has grown significantly (Garcia Segura 2017). Of the countries in the European Union, only two had federal systems after the Second World War. In 2017, 19 of the 28, including Belgium, Spain, Italy and France, display a significant increase in regional government, and some of these countries are now established federal systems. The Forum of Federations, a Canadian think tank, estimates that 40% of world's population now lives in a country with a federal type of system, notably the United States, Canada, Mexico, Germany and Belgium (Forum of Federations 2011; Paquin 2010; Hooghe & Marks 2001).

International negotiations are clearly not restricted to areas under the exclusive jurisdiction of central governments. All spheres of government activity, including matters under the jurisdiction of sub-national or non-central governments — states, provinces, *Länder*, cantons, *comunidades autónomas*, *communautés* and *régions*, and so on (even municipalities)—come within the purview of at least one and often several international organizations. International organizations and conferences deal with such topics as free trade, the environment and climate change, government procurement, education, public health, cultural diversity, business subsidies, treatment of investors, removal of non-tariff barriers, agriculture, services and labor mobility (Paquin 2010; Kukucha 2017).

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In this context, non-central governments are aware that their political power and sovereignty, in other words, their ability to formulate and implement policy, are subject to negotiations in multilateral fora. As a result, the number of non-central governments actively engaged in international negotiations has risen considerably since the 1960s (Fry 2017; Schiavon 2017; Tavares 2016; Kuznetzov 2014; Crikemans 2010; Paquin 2010, 2004; Michelmann 2009; Cornago 2000; Aldecoa & Keating 1999; Michelmann & Soldatos 1990).

Non-central governments are often downplayed in the state-centric international relations and international political economy literature, because they do not have the qualifications to be considered “true international actors.” Paradiplomacy is thus presented as low intensity or second-rate foreign policy. Some authors prefer to classify non-central governments in the catch-all category of non-governmental actors, despite the fact that they are government actors—and therefore representative—and the success of some of their mobilizations gives them international relevance.

This neglect is not limited to realist theorists of international relations; even liberal and constructivist scholars marginalize the phenomenon and study foreign policy by focusing mainly on central governments. The NGOs and transnational actors that received some attention from the 1970s to the 1990s are also largely ignored today (Fry 2017). Even Keohane does not currently pay much attention to non-central governments (Cohen 2008, 2014).

This lack of <sup>attenti</sup> scholarly literature contrasts uncomfortably with the actual impact of non-central governments on international negotiations. Examples touch a wide range of policy areas, from finance to defense to the environment. The Western Climate Initiative created by the province of Québec and the state of California is the second biggest carbon market in the world (Chaloux 2017); the governor of Colorado hosted the first-ever “North American Summit” of U.S. and Mexican governors and Canadian premiers in 2015; the state of Maryland imposed sanctions on South Africa during apartheid; National Guard units of American states participate in international military exchange programs; the German Land of Baden-Württemberg takes part in peacekeeping missions in Bangladesh, Russia, Bosnia-Herzegovina, Burundi, and Tanzania; Jordi Pujol i Solel, the former president of the Generalitat of Catalonia, held face-to-face talks with every leader of the G7 except Canada over the course of the 1990s; the Mexican state of San Luis Potosí took steps to facilitate the transfer of cross-border funds from immigrants in the United States; and the regions of Belgium signed binding treaties with sovereign states, ~~to name a few~~ (Garcia Segura 2017; Kukucha 2017; Chaloux 2017; Schiavon 2017; Asthana and Jacob 2017; Fry 2017).

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The involvement of non-central governments in the foreign policy of federal states leads to a fundamental question in political science: who governs? (Dahl 1961). How are decisions concerning foreign policies taken and implemented when they involve issues under the jurisdiction of sub-national governments? What is the role of non-central governments in the conclusion (negotiation, signature and ratification) of international treaties and their implementation and monitoring when these treaties affect their areas of competency?

Recent trends are forcing central or federal governments to reconsider how they deal with international negotiations. Scholars also need to deploy different analytical tools as they seek to understand the relationship between international negotiations and federalism. The three parts of this article provide a foundation on which these efforts might develop.

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### Domestic Institutions and International Negotiations: State of the Art

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For more than 50 years, scholars working on international relations and foreign policy have focused their attention on domestic influences on foreign policy (Waltz 1959). Rosenau (1969) was one of the first scholars to draw attention to “linkage politics” between domestic and international affairs. In the early 1970s, Allison (1971) introduced bureaucratic politics and, more precisely, the notion of “intra-national games” to explain US foreign policy during the Cuban Missile Crisis. Another stream of theorizing began with the work of Katzenstein and Krasner (1976), who focused on “structural” factors, and particularly on “state strength” in economic policy.

A significant contribution for students of federalism came from Putnam (1989, 1993), who used the “two-level game” metaphor to capture the dynamism and complexity of international negotiations. This metaphor and subsequent scholarship on double-edged diplomacy refers to the idea that central governments have to negotiate simultaneously with domestic and international actors in order to secure agreements. According to Putnam:

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the politics of many international negotiations can usefully be conceived as a two-level game. At the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse

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consequences of foreign developments. Either of the two games can be ignored by central decision-makers, so long as their countries remain interdependent, yet sovereign. (...) Each national political leader appears at both game boards (1988: 434).

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Putnam's metaphor ~~of~~ the two-level game prompted a great deal of response. Milner and Rosendorff (1997) argued that the division of power between the executive and the legislative branches, not to mention elections, was more important in international negotiations than Putnam gave it credit for. Martin (2000) also challenged the theory of executive dominance advocated by many international negotiation theorists, including Putnam himself. According to Martin, the legislature in democratic regimes has the ability to block implementation of an international obligation, even when legislative approval is not required. The legislature may exert its influence through budgetary control, coordination with the executive, the appointment of agents, and the design of procedures for the implementation of treaties. Thus, an international commitment negotiated without the participation of the legislature may lack credibility. International agreements gain strength when the legislative branch is included in negotiations through an institutionalized mechanism, in both presidential and parliamentary systems. Negotiations that involve both branches of government reduce uncertainty, because the legislature reveals information to national negotiators, but also to other states, describing societal preferences concerning what can be implemented. Martin demonstrates that the legislature's presence in international negotiations promotes the implementation of international commitments in the United States and Europe, thereby strengthening their credibility (Martin 2000; Lantis 1997).

These debates provide important insight into the internal dynamics of national government negotiations, but Putnam, Milner and Rosendorff, and Martin do not, in their studies, systematically examine the impact of federalism, that is the division of powers between federal and non-central governments, on international negotiations. In the general literature, we can identify two missing links: the impact of paradiplomacy and the influence of federalism in foreign policy.

### Paradiplomacy

Where does the concept of paradiplomacy come from and what exactly does it mean? We must admit from the outset that the very concept is disputed. Some

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authors talk about micro-diplomacy, regional sub-state diplomacy, multi-track diplomacy, while others refer to multi-level diplomacy (Criekemans 2010; Paquin 2004; Aldecoa & Keating 1999; Hocking 1995; Michelmann & Soldatos 1990).

The neologism paradiplomacy makes its appearance in the scientific literature in the 1980s in discussions of federalism and comparative politics and is used to describe the international activities of Canadian provinces and ~~us~~ states in the context of globalization and transborder relations. Paradiplomacy is not, however, the first or only term used to represent this phenomenon. The term microdiplomacy can be found in Duchacek's writings in the 1980s, though he later adopted the concept of paradiplomacy, which he attributes to Soldatos (1990). Duchacek wrote:

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Initially, I used the colloquial 'microdiplomacy' since a derogatory sense could be read into it. I gladly accept Professor Soldatos's much better term 'paradiplomacy.' Not only has it no derogatory sound but 'para' expresses accurately what it is all about: parallel to, often coordinated with, complementary to, and sometimes in conflict with center-to-center 'macrodiplomacy' (Duchacek 1990: 32).



For Soldatos and Duchacek, paradiplomacy represents the international activities of sub-state entities. Soldatos describes paradiplomacy as "a direct continuation, and to varying degrees, from state government, foreign activities" (Soldatos 1990: 32). In other words, paradiplomacy consists in an international policy at the regional level that is distinct from that of the central government; it is a parallel diplomacy (Paquin 2004).



Duchacek complicates the concept somewhat by insisting that we distinguish between several types of paradiplomacy: cross-border regional micro-diplomacy, transregional microdiplomacy, global paradiplomacy and finally, protodiplomacy. He goes on to define these key concepts in more detail, describing global paradiplomacy as the action of federated states that come into contact with financial, industrial or cultural centers outside the country, but also with agencies of foreign countries. In contrast, protodiplomacy consists in "diplomatic preparatory work for a future secession and for the international diplomatic recognition of such an occurrence" (Duchacek 1986: 248). The term is used to describe the foreign policy of a sub-national government seeking to initiate secession, like Catalonia today or Québec in 1994–1995 (Garcia Segura 2017). In this context, the subnational actor's aim is to open up overseas proto-embassies or protoconsulates. Protodiplomacy is confrontational and viewed with suspicion by the central government.

The concept of identity paradiplomacy is also useful to differentiate protodiplomacy from identity-based international policy (Paquin 2005, 2003, 2001). It helps make sense of the international strategy employed by governments in Québec, Scotland, Wallonia, Flanders and Catalonia during times when these regions are *not* seeking secession. When a federated state includes a minority nation that has an identity different from the majority nation, like Québec in Canada or Catalonia in Spain, this distinct identity, regardless of immediate nationalistic demands, promotes and intensifies the development of international activities. Non-central entities with minority status tend to develop their international relations in order to secure resources and support that are lacking domestically. This drive is accentuated when the federal government is antagonistic to minority claims, as in Catalonia and Québec (Paquin, Kravagna & Reuchamps 2015).

Québec's international policy is different from that of other Canadian provinces in that it seeks to defend its constitutional, economic and environmental interests abroad (Chaloux 2017; Kirkey, Paquin & Roussel 2016). But it is also unique in that international activities are driven by a desire to maintain Québec's separate identity within the Canadian federation, and are motivated by an identity issue not present in other provincial governments: preserving the French language and culture. While all provinces are motivated in their international activities by the need to strengthen the role of the provincial government, only Québec is driven by the quest for identity and by what is called a "national project." This goal is pursued not only by pro-independence leaders: Jean Charest, a federalist Liberal Premier of Québec, said in July 2006, "In defending our identity, we federalists are just as aggressive as sovereignists" (our translation, quoted in Nossal, Roussel & Paquin 2015: 354).

The concept of paradiplomacy can be contested. Hocking (1993) has challenged it regularly, considering that the concepts of paradiplomacy or protodiplomacy were created to strengthen distinctions and disputes between central and non-central governments. According to Hocking, this approach is a false representation given that non-central government activities are necessarily located in their "diplomatic complex environment." Diplomacy for Hocking cannot be viewed as a segmented process between actors within a state, but rather as a system where players are entangled within a state structure. The actors change depending on the issues, interests and their ability to operate in a multi-level environment. Hocking's rejection of the paradiplomacy concept is based on "cooperation imperatives" that exist between central and non-central governments. Eschewing paradiplomacy, identity paradiplomacy or protodiplomacy, he prefers terms such as "catalytic diplomacy" or "multi-level diplomacy" (Hocking 1993).



1X This approach tends to underestimate the autonomy of sub-state actors in  
 2 the pursuit of foreign activities. In addition, Hocking's concepts do not describe  
 3 the specific actions of non-central governments, but refer to the entire diplo-  
 4 matic system of a state that includes, in his view, all non-central governments.

5 Other authors have also developed concepts to describe international poli-  
 6 cy at the meso level. In Europe, for example, the concept of multi-level gover-  
 7 nance has become very popular since the 1990s. This notion seeks essentially  
 8 to explain the role played by subnational regions in European integration. We  
 9 will come back to this later, but wish to emphasize that non-central govern-  
 10 ments are involved internationally not only in the context of multi-level rela-  
 11 tions, but also create bilateral relations that are not related to the European  
 12 Union (Hooghe & Marks 2001).

13 We argue that paradiplomacy occurs when a non-central government has a  
 14 formal mandate to develop an international strategy and negotiate with other  
 15 international actors. Economic and trade promotion policy, attracting foreign  
 16 investment, ~~but also~~ education, science and technology, energy, environment,  
 17 immigration and labor mobility, international development and human rights  
 18 ~~are~~ among the major international fields of actions ~~among~~ non-central governments. ~~we~~  
 19 Interest in security issues is also evident, notably since 9/11 (Kukucha, 2017:  
 20 Asthana & Jacob 2017; Morin & Poliquin 2016).

21 A distinction must be drawn between paradiplomacy, which is the work of  
 22 actors duly mandated by government, and networks of government officials.  
 23 Governmental networks involve actors who exchange information and coordi-  
 24 nate activities with counterparts in other countries to manage common prob-  
 25 lems (Slaughter 2004: 2). These include finance regulators, police investigators,  
 26 judges, legislators and employees of central banks, for example. Slaughter  
 27 (2004) regards international governmental networks as a key feature of current  
 28 world politics, affecting government expertise at all levels.

29 The paradiplomatic phenomenon has been growing, and involves not  
 30 only governments in federations but also governments of global cities such  
 31 as London, Tokyo, New York, and Shanghai (Tavares 2016; Scott 2001). In this  
 32 view, the international activities of non-central governments must be put into  
 33 a broader global perspective as an intensive, extensive, and permanent phe-  
 34 nomenon. Non-central government actors enjoy considerable autonomy in  
 35 the making of their international policies. They also devote considerable re-  
 36 sources to paradiplomacy and they have more and more influence not only on  
 37 global politics but also on the definition of national foreign policies.

38 In terms of their status as international actors, non-central governments  
 39 also have certain advantages over nation states. The benefits come from  
 40X their ambiguous status, which is, in the words of Rosenau (1990: 36), both



“sovereignty-bound” and “sovereignty-free.” Being sovereignty-bound, or located within a sovereign state, gives them access to central government decision-makers, including foreign policy actors. Unlike non-governmental organizations (NGOs), they may even have privileged access to international diplomatic networks and international negotiations, with the ability to influence outcomes.

On the other hand, non-central governments also enjoy a sovereignty-free status in global politics. Since they are not recognized as sovereigns in their own right, they are able to act more freely than central governments. In that sense, non-central governments enjoy some of the benefits of civil society actors. It is easier for non-central governments to adopt idealistic positions, and they have greater latitude to take firm positions on sensitive subjects such as human rights violations. In contrast, central governments must employ a more nuanced and diplomatic approach to such questions since it cannot ignore the constraints of coalition politics on the country’s political and commercial interests (Cantir & Karbo 2016). Likewise, non-central governments can defend their interests in foreign courts, as the province of Ontario did over acid rain caused by ~~es~~ industry, and the province of British Columbia did during the “salmon wars”: both governments pleaded their cases directly to a ~~us~~ judge. This option is not available to a national government (Paquin 2004).

The range of public policy tools available to non-central governments is almost as vast as that of central governments, with the fundamental exception being the use of military force (Schiavon 2017; Garcia Segura 2017; Fry 2017; Philippart 1997). Indeed, non-central governments send delegations abroad, develop bilateral and multilateral policies with other non-central governments or sovereign countries, participate in trade fairs and international forums such as the Davos Forum, finance public relations campaigns to increase exports and attract investments, and arrange official visits with other regional leaders or even with central state leaders. Sometimes, they even have a ministry responsible for international relations, such as Québec’s Ministère des Relations Internationales et de la Francophonie. Regional officials might participate in their country’s delegation to meetings of international institutions like the UN, the WTO and the European Union. It is now common for provincial officials from Canada or Belgium to speak in the name of their respective countries in international forums and participate in drafting international agreements when the subject matter falls within their constitutional jurisdiction. The Canadian provinces were even “at the table” for discussions related to issues under their jurisdiction during the Comprehensive Economic Trade Agreement (CETA) negotiations with the EU (Kukucha 2017; Paquin 2013). Québec has a designated seat in the Canadian delegation at UNESCO. The Belgian regions and

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cultural communities have even more autonomy, as they are officially responsible for Belgian foreign policy in fields that come under regional jurisdiction. Belgian regions ~~for instance~~ have the responsibility to negotiate trade agreements (Deschouwer 2009).

However, non-central governments also face a number of constraints. Because they are not recognized as actors under international law, most of them have to negotiate the terms of their international activities with their central government, especially regarding official missions to foreign countries and access to international organizations. The power differential between non-central and national governments ~~is growing~~ when budgetary resources are involved. Though some non-central governments devote considerable budgets to international relations, these are most often dwarfed by the budgets of central governments. For example, the annual budget of the Canadian embassy in Washington is equivalent to the entire annual budget of the Ministère des Relations Internationales ~~and~~ la Francophonie in Québec, the Canadian province ~~by far the~~ most active in international affairs.

### Federalism and Foreign Policy

The distinguishing feature of international politics has always been the existence of independent political communities that seek to preserve their autonomy from other states (Badie 1999; Krasner 1999; James 1986). The attributes of a sovereign state are possessed by a government within a defined territorial area that exercises supreme authority over the population within those boundaries. Importantly, these attributes are deemed to be indivisible: only one sovereign authority can embody them for a given territory and population.

Paradoxically, at the very time that the principle of sovereignty—with its assumption of one supreme authority exercising political power within a polity—was gaining legitimacy in global politics, forms of government based explicitly on the divisibility of sovereignty were being created: federations. A confederation is a voluntary union of states that choose to pool their sovereign powers (Thürer 2003: 26–32; Watts 2003: 10; Ehrenzeller et al. 2003: 53–73).

In a federal system, the central government and the governments of the constituent parts of the federation ~~the~~ non-central governments ~~each~~ retain sovereign rights in defined areas of competence. Federations all have a minimum of two legal orders that apply directly to their citizens. This notion of shared or divided sovereignty does not sit well with the Westphalian international order and the principles of international law enshrined in that order. On the contrary, federalism assumes that sovereign political authority can

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be exercised in a same territory, over a same people, by more than one order of government. An important problem arises from the fact that while federal states are considered to be unitary actors under international law, a federal government must grapple with the constitutional division of powers when negotiating with other countries to ensure that it is able to implement obligations it incurs through international treaties and agreements.

The crucial element is the sharing of powers between two orders of government. A federal constitution will designate some powers as the exclusive competence of the central government, while other powers will be devolved to non-central governments. Some areas of competence will be shared as concurrent powers by both levels of government. This division of powers will, in large part, determine the nature and form of non-central government participation in foreign policy and relations between the two orders of government in this ~~disagreement~~ ~~and quarrel~~ the division of powers can also be a source of ambiguity, rivalry and ~~and quarrel~~ between different governments in the federation.

Non-central governments are very different from one another because they reflect the distinct ways in which each nation addresses this division of constitutional powers. Differences can even be found within a single country. This diversity creates a strong asymmetry between non-central governments in terms of autonomy. The more a country is constitutionally decentralized, the greater the legislative powers and thus autonomy of non-central governments.

In unitary states like Denmark or Israel, non-central governments have no, or very little, autonomy. A unitary state is governed as a single unit in which the national government is the decision center. Non-central governments, where they exist, and local governments, exercise only the powers that central governments choose to delegate. In the case of a devolved or decentralized state, non-central governments have more autonomy. These are generally former unitary states, like France, where the authority and responsibility for some public functions have been transferred from central to regional government (*French Politics* 2010). A devolved state is a centralized state like the United Kingdom, where non-central governments have a degree of autonomous power devolved from central government, but cannot challenge the constitutionality of central government law. As well, the powers devolved by the central government can be revoked or reduced. Central government in London has, for example, suspended the Northern Ireland Assembly many times since its creation. In theory, decentralized and devolved states are different, though these differences are superficial in practice.

In a federal state, sovereignty is constitutionally divided between a central government and non-central governments (like the Australian states and territories or the German Länder). To qualify as a federal state, a minimum

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requirement is that the constitutional powers of non-central governments cannot be changed unilaterally by the central government. In federal systems like Germany, Canada, the United States and Belgium, non-central governments have considerable autonomy. In Canada, for example, provinces are constitutionally responsible for health care, education, culture and municipalities. They can also act on economic development, justice, the environment, etc. In Belgium, the autonomy for communities and regions goes even further. Since 1993, Belgium has been, according to the first article of its Constitution, "a federal state composed of communities and regions." The constitutional revision of 1993 permits regions and communities to become real international actors. This includes the power of representation and the power to sign treaties with sovereign states. The organization of Belgium's international relations is fundamentally adapted to the federal state structure. The autonomy of Belgian non-central governments with regard to external policy is unique in the world. Its exceptional nature arises from the recognized constitutional principle "in foro interno, in foro externo." In addition, there is an absence of hierarchy between different levels of administration (Garcia Segura 2017; Criekemans 2010; Paquin, 2005).

In federal states, non-central government involvement in foreign policy-making raises questions about how international treaties are negotiated and implemented when issues involve non-central government jurisdictions. What is the role of non-central governments in the negotiation, signature, and implementation of international treaties when those treaties affect their powers?

Two markedly different schools of thought distinguish federalism experts on this question: the centralized school and the multi-level governance school. Among proponents of the centralized approach, one of the first theoreticians of federalism, Wheare (1967: 168), maintained that the monopoly of international relations was a "minimal" power for any federal government. In a major study, he illustrated how breaking down centralized control of foreign policy had negative consequences for national interest and the operation of the international system. Davis (1967) similarly affirmed that international relations lie at the epicenter of federal systems. Centralization of foreign affairs power is also required by international law, because a centralized political system is a necessary condition for a state to fulfill its assigned role in international law and practice (Badie & Smouts 1999). For proponents of the centralized school, without the existence of a central government that has a plenary authority on

its territory in relation to foreign affairs and the ability to participate in international relations and enforce international obligations in the domestic order, inter-state relations are seriously compromised (Shaw 2008). Granting power of co-decision risks paralyzing the state's foreign affairs, because every player has a veto, resulting in harm to the state's image in the international arena. Analyzing this risk in the context of German but also EU federalism, Scharpf (1988) calls it the "joint decision trap."

In some federal countries, such as Canada, Australia, and Belgium, many foreign affairs specialists have underlined the constitutional difficulties for the central government of negotiating and implementing international agreements when these involve provincial areas of jurisdiction (Brown & Fry 1993; Harrington 2005; Skogstad 2012; Paquin 2012; Twomey 2009). Other federal regimes are ~~experiencing the same kind of~~ <sup>Facing</sup> issues. The constitutions of India and Malaysia explicitly assign foreign relations to the federal government, but in Australia and Canada, federal courts have accorded a more important role to non-central governments. The constitutions of other countries, such as Austria, Germany, Switzerland and Belgium, assign non-central governments explicit powers over foreign affairs; in Belgium, Germany, and Switzerland, they have even been accorded treaty-making powers (Michelmann 2009: 6–7). Belgium goes further than any other country, assigning non-central governments exclusive responsibility for the international projection of internal constitutional provisions. According to the Constitution established in 1993, three categories of treaty are possible in Belgium: 1) treaties that exclusively involve the powers of the federal government and are concluded and ratified by the ~~same~~ federal government; 2) treaties that are related exclusively to community or regional powers and are concluded and ratified by communities and regions; and finally 3) mixed treaties (Paquin 2010).

Proponents of the multi-level governance approach have taken stock of this federal question in international treaty negotiation and implementation and have suggested an alternative to the centralized school (Bache & Flinders 2004; Hocking 1993; Hooghe & Marks 2003; Jeffery 2000). In this view, regional integration, the growth of multilateralism, and globalization have rendered the centralization approach obsolete. According to Hocking, diplomacy and foreign policy cannot and should not be considered the exclusive purview of central government. Non-central governments always have an important role, even if it is restricted to implementing international agreements concluded by the central government. In addition, giving a monopoly over foreign policy to the central government in a federal state risks upsetting what should be an equitable distribution of powers between the different orders of government, tipping the balance in favor of the central government.

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Instead, Hocking suggests that foreign policy should be viewed as a system where different actors within a federal state structure have to cooperate with each other (Hocking 1998). Multilevel governance thus implies that there exist “obligations of cooperation” between central and non-central governments in federal states. The only way to put coherent international policies in place is for both layers of government to set up intergovernmental mechanisms to enable consultation on policy and secure agreement. Other scholars from the multi-level governance school go further in arguing that:

[a]s a constitutional theory, federalism affirms that both subnational and national entities constitute the sovereign state. Neither level is super- or subordinate to the other, and both are necessary to constitute the whole (Piattoni 2010: 207).

Many authors consider that foreign policy must now be conceived as a system in which the actors in a federal state structure are interlinked. They emphasize the existence of imperatives of cooperation and coordination between central governments and sub-state governments states. Implementation of a coherent foreign policy inevitably entails consulting with—and even according a significant role to—federated states through national intergovernmental mechanisms, so that they may play an active part in the state’s foreign policy. Thanks to such consultation mechanisms, non-central governments in India, Argentina, South Africa, Canada, Spain, Belgium and Germany have gradually become more engaged in foreign relations, while state-level involvement remains minimal in the United States (Fry 2017; Michelmann 2009: 7). As the requirements of cooperation become more important, we see an increase in “executive federalism,” where both the federal prime minister and provincial premiers actively participate in intergovernmental negotiations of international treaties.

In the European Union, foreign policies are shared between EU institutions and the 28 national member state governments. Most of the research on EU foreign policy-making is embedded in prominent international relations theories (Keukeleire & Delreux 2014; Bickerton 2011). Surprisingly, this research has not recently examined the relevance of federal theory and experience in analysis of EU foreign policy-making, even though several comparative references can be made (Saurugger 2010; Bache & Flinders 2004; Sbragia 1992). The rise of regional governments and sub-national autonomy has a major impact on EU multi-level governance. Decisions taken at one level of government affect decisions at other levels. Most policies thus require some form of coordination among international, European, national, regional and local governments.



If the concept of multi-level governance emerged within the framework of the European Union, it is applied in various situations today, when virtually all government activities are affected by the competence of one or more intergovernmental organization. International organizations and international conferences currently deal with themes related to education, public health, cultural diversity, environment, business subsidies, treatment accorded to investors, and removal of non-tariff barriers. This phenomenon is magnified in Europe by the process of European integration and in North America by the North American Free Trade Agreement (NAFTA). This enlarged scope of international issues means that government departments at all levels are engaged in activities that involve foreign relations. This situation makes it harder for national ministries of foreign affairs to centralize decision-making processes.

In this context, non-central governments have become more aware that their political autonomy and sovereignty—in other words, their ability to formulate and implement policy—is subject to negotiation in multilateral fora. Since the 1970s, there has been a noticeable increase in the number of non-central governments that participate actively in international affairs.

The situation around climate change provides a good example. It is now recognized that non-central governments play a crucial role in addressing contributors to climate change. They are the principal actors in public transportation and urban policies and are very concerned with climate change since they will be the ones doing much of the heavy lifting to comply with any significant international agreement.

While non-central governments are involved in the implementation process, they do not have a direct role in multilateral negotiations on climate change policy. Because of this lack of representation in multilateral fora, non-central governments have developed other mechanisms to influence multilateral decision-making. One is to have direct access to negotiations at the multilateral level. For example, the prime minister of Québec and the governor of California were present at the Paris conference on climate change in 2015, along with many other sub-state representatives. The second mechanism is to influence the national position of the central government. The government of Québec publicly denounced the former prime minister of Canada, Stephen Harper, and his government's approach to climate change, hoping to affect Canadian positions. The third strategy is to team up with other non-central governments to create networks of regions. During the Copenhagen Conference on Climate Change in 2009, Michèle Sabban, President of the 270-member Assembly of European Regions, and partners from the United Nations Development Programme (UNDP) promoted the idea of the "R20" (Region 20). According to Sabban (2009):

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for an agreement in Copenhagen not to remain wishful thinking, it must rely on sub-national levels, in particular, on regions and federated states. For example, we know that between 50 and 70% of all adaptation and mitigation measures against climate change will call for implementation by the regions.

Since many countries are reluctant to include regional and municipal representatives in their national delegations, regions and cities have created multilateral institutions like the R20, the NRG4SD (Network of Regional Governments for Sustainable Development) and the C40 (Cities Climate Leadership Group) in order to participate more directly in international decision-making and apply pressure to their respective central governments. In North America, examples of these non-central government fora include the Conference of New England Governors and Eastern Canadian Premiers and the Western Climate Initiative (Chaloux 2017; Chaloux, Paquin & Séguin 2015).

In view of the growing impact of international issues on their fields of jurisdiction, non-central governments are playing a greater role in international negotiations, leading the United Nations to formally recognize the relevant place of these actors in talks on climate change. The ~~United Nations Development Program~~ UNDP ~~Program~~ thus asserts: “most investments to reduce GHG [Greenhouse gas] emissions and adapt to climate change—50 to 80 percent for reductions and up to 100 percent for adaptation—must take place at the sub-national level.”<sup>3</sup> The 16th Conference of the Parties to the United Nations Framework Convention on Climate Change in Cancún in December 2010 similarly acknowledged the importance of non-central governments in Article 7 of the Cancún Agreement.

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### Conclusion

Paradiplomacy, federalism, and international negotiation are increasingly prevalent phenomena that require more theoretical attention from international theory. With the development of paradiplomacy, the state monopoly on which the Westphalian international model was created is being seriously questioned by non-central governments. Westphalian state diplomacy is finding it increasingly difficult to cope with the proliferation of ad hoc and informal arrangements

<sup>3</sup> See: online at [http://www.undp.org/content/undp/en/home/ourwork/environmentandenergy/focus\\_areas/climate\\_strategies/undp\\_projects\\_thatcontributetogreenecdrsnational\\_sub-nationalstrategies.html](http://www.undp.org/content/undp/en/home/ourwork/environmentandenergy/focus_areas/climate_strategies/undp_projects_thatcontributetogreenecdrsnational_sub-nationalstrategies.html).

that bind non-central governments. The international arena is inhabited by an ever larger number of players that sometimes have significant autonomy from the central state but ~~with a~~ political legitimacy as they proceed from democratic elections. ~~have~~

Central states are not ~~the~~ only actors able to conclude formal contracts with other central states, and ~~do~~ not have exclusive access to international organizations. In addition, they no longer hold a monopoly on international representation. In many countries, central states have agreed to share part of their international powers with non-central governments. This phenomenon is increasing the importance of coordination in the foreign policymaking process, not only horizontally (between central state agencies) but also vertically (between levels of government).

The ability of the state to make decisions that are binding on the entire population of a country is threatened by paradiplomacy. In some countries, including Canada and Belgium, the problem is compounded by the fact that the international commitments of central government on issues outside of central jurisdiction do not automatically mean non-central governments will collaborate on implementation. Such constraints, often incomprehensible to foreign observers, complicate relations with Canadian or Belgian partners. ~~It goes often against the~~ principles of international law that only recognizes the legal responsibility of the central state.

This new phenomenon carries a risk of disorder and conflict that scholars ~~already~~ pointed out ~~in~~ the 1960s (Wheare 1967; Davis 1967). A first risk is that it engages regular internal conflict between a central government striving to preserve its prerogatives in international negotiations and non-central governments seeking to build their own power without any coordination. A second risk is that conflicts between different non-central governments about ~~the~~ position ~~to hold~~ in the international arena force the central state to adopt a low profile or even ~~to~~ abstain from ~~making~~ a decision. This is a situation that authors such as Deschouwer and Franck ~~point out in the case of~~ Belgium. The difficulties ~~for~~ Flemish, Walloon and Brussels representatives ~~to agree~~ on a common position could lead Belgium to abstain as a State in EU negotiations (Deschouwer 2009; Franck 2012).

If the centralist (or Westphalian) model is less and less valid ~~to describe~~ the emancipation of federated states in international negotiations, ~~the~~ question ~~about~~ the relationship ~~between~~ diplomatic efficiency ~~and~~ state centrality remains ~~a~~ relevant one. ~~However,~~ this relevance decreases ~~immediately when~~ research focuses ~~not only on the efficiency issue but also~~ on the legitimacy of international negotiations, ~~as well as their~~ efficiency.

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