KRG and Managing Foreign Relationships

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Abstract

Diplomacy is an instrument of statecraft and it is used to manage the foreign policy goals. Since interests of all are heterogeneous, both diplomacy and foreign policy cannot be subsumed under a common denominator. Moreover, some argue that there is, or should be, a dividing line between foreign policy and foreign affairs. So, the increasing contact between states dramatically, have linked countries together. Gave unprecedented role Sub-state units such as states of a federation, provinces, regions to take part in international relations. Creating an intermestic domain which regulates by paradiplomacy. The capacity of the legal and actual powers that KRG enjoys and exercises, especially at the international relations aspect, it might be the real motive to say that KRG management of foreign policy is stumbling. However, it might be said that KRG has been prevented legally, of course relatively, to exercise and manage foreign policy, and Kurdish political cleavage, unfortunately, prevented to exercise foreign affairs properly.

Sub-State Diplomacy and the Concept of Foreign Affairs

The distinction between foreign policy and diplomacy becomes more difficult when those who make foreign policy decisions also engage in contact with foreign partners. Today, summitry has become a part of diplomacy. Direct contacts between the leaders of states are normal and frequent events.

Diplomacy is an instrument of statecraft. It originally was an instrument of states to deal with other states. After international organizations had been established, non-state actors had appeared, the international relationships had been developed tremendously, parties other than the state became involved in diplomacy plausibly. Diplomacy is used to manage foreign policy goals. As far as content is concerned, diplomacy is a dependent variable of foreign policy. Whatever goals are to be attained; diplomacy follows its own grammar. Diplomatic work proceeds along with the same norms, rules, and practices that are appropriate to reach the target. The dualism between foreign policy and diplomacy is the starting point for an analysis of diplomacy. Foreign policy is the content of foreign relations, comprising the aspirations and aims a country wants to achieve in its relations with other states, international organizations, and non-state actors. All define their interests. Since interests of all are heterogeneous, they cannot be subsumed under a common denominator.

Diplomacy is used to manage the goals of foreign policy focusing on communication. Mostly by implementing goals but also by preparing foreign policy decisions. The goals of a country's foreign policy are increasingly influenced by domestic forces. Thus, the objectives of a country's foreign policy undergo frequent changes. In democratic countries, foreign policy decisions are reached by those organs, which are given the responsibility by the constitution. In countries governed by other political systems, foreign policy decisions are made by those officials or bodies that are in power. [1]

Traditional international relations' schools, view states as bona fide subjects, being the only ones that possess sovereignty, allowing them to engage fellow sovereign states in the realm of diplomacy. Diplomacy, therefore, is rendered as a sovereign function that is neither divisible nor transferable.[2]

As mentioned above, some argue that there is, or should be, a dividing line between foreign policy and foreign affairs. For instance, the United States differentiates between foreign affairs and foreign policy, and it does not give much attention regarding the involvement of the states that make up the federation in the global economy, the establishment of special relations with decentralized governments abroad, or even the strengthening of state ties that transcend the economic

dimension. However, the federal central government wants the states not to interfere in foreign politics, as it wants the foreign policy to remain an exclusive matter of the central government.

But, the increasing of contact between states dramatically; International trade, tourism, migration, counter-terrorism, development assistance, and cultural exchanges have linked countries together. Gave an unprecedented role to non-state actors. Sub-state units such as states of a federation, provinces, and regions take part in international relations. Their interactions with the outside world are called paradiplomacy, also known as multilayered diplomacy, sub-state diplomacy, that regulate that interaction domain of the sub-states. This interaction domain in turn called intermestic.

The term intermestic is an abbreviation standing for international and domestic and it is not part of a school of thought but rather it is a kind of strategic management approach in the field of foreign affairs that views the relatively equal important spheres of domestic and international affairs. It is, however, one of many ways of thinking and understanding the work of foreign policy in dealing with domestic issues or the reverse.

Paradiplomacy as it is conducted by sub-state governments introduces the idea of decentralization of political power to make regional governments prominent actors in the international sphere. Examining some examples, it becomes obvious that not all interactions of sub-state units with the outside world deserve to be called diplomacy.

Stefan Wolff describes paradiplomacy as the "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." As opposed to conventional diplomatic relations that fall under the exclusive domain of sovereign nation states exercised by central governments, paradiplomacy -a neologism- makes space for external relations of sub-state or federal units that might indulge themselves in international activism.[3] And the truth is so. It is different. A good observer of the KRG's activities, does not agree with this simple conclusion only, but may go further than that. Some of them considered KRG as a quasi-state. The capacity of the legal and actual powers that the KRG enjoys and exercises, especially at the international relations aspect, it is the real reason behind this.

The very existence of these multiple terms is indicative of the plurality of processes that analysts have attempted to capture. In this context, paradiplomacy research trajectories are naturally complex and crosscutting, but it is possible to identify two key trends:[4]

First, there has been a significant diversification in the empirical locus of research on paradiplomacy. which relates to the academic interest in new forms of federalism emerging in these contexts. Which in turn related to the spike of activity to the ever‐creeping erosion of the distinction between domestic and foreign affairs as a result of globalizing forces and the emergence of continental trading platforms (international law neologism).

Second, the identifiable trajectory has been the ontological reframing of the processes of paradiplomacy from generally structural to more agency‐centric conceptualizations.
In the early studies, the primary concern was for the state itself rather than the practices of paradiplomacy, trying to theorize and not simply describe these practices, in the context of globalizing forces, paradiplomacy was a functional and necessary economic reaction for regions.

KRG and Foreign Policy Tools

KRG's foreign affairs department

For many specialists, the period between the declaration of the KRG and the constitutional recognition of the KRG as a federal unit 1992-2004, is considered a de facto era.[5] Therefore, the KRG's relations in the above period were overshadowed by the partisan character as well as all the region's institutions. From here, political parties played the

primary role at the level of foreign relations. Rather, it was the one that ran it formally and informally.

Indeed, the civil war between the two parties, KDP and PUK, in the 1990s did not only lead to the splitting of the administration (the KRG) with all its institutions, including the institutions supervising the management of foreign affairs, but also led to each party having representation in the country neighboring its areas of influence, which is locally called Green Zone and the yellow area.

predominately, the party was the most effective tool for exercising the government's foreign policy competencies. This is a natural result if we surrender to the logic of saying that domestic policy is a mirror of foreign policy. In other words, by any tool the internal affairs are managed with the same tool, the external affairs are managed, and since the internal tool was the party, it was therefore the only tool for managing external relations.

Although this is a sharp point of criticism, it is considered normal, at least tentatively. Whereas, the struggle of the Kurdish people was found within the framework of the political party. And that the party's relations were the same as the external relations that represent the people, and thus this approach will continue in managing foreign affairs even if the field of struggle has changed from the mountain to the city.

Of course, this conclusion will have multiple negative consequences, which we will detail later. However, it is not possible to overlook a tentative feature of it, which is building expertise and moving towards improving performance. Then an attempt to institutionalize these foreign affairs and consider it a positive initial gain for the start-up phase of building the government and its institutions.

Article 18 of the Council of Minister's regulation for the Kurdistan region came clearer and emphasizes the region's external activities, especially in its political dimension, making the KRG a state in its dealings with the outside world. By establishing the KRG's Foreign Affairs Department.

The importance of this department is that it is, at least officially, the institution responsible for building the foreign policy of the Kurdistan Regional Government and protecting its interests and the interests of its citizens residing abroad through its representation in those countries, in accordance with the regional legislation and the constitution of Iraq. however, the nature of the region's foreign activities and relations went beyond the federal constitution and extended to the political and diplomatic nature.

Constitutional Context of KRG's foreign affairs

When diplomats work at home in the foreign ministry, they get involved in foreign policy making and diplomacy. They draft policies for the political leadership of the country by producing submissions (memoranda) for their superiors. They draft speeches, articles for newspapers, press releases and presentations for the legislature. In this capacity they have an impact on policy making. Their instructions to their diplomats abroad are often of a tactical nature. They also are the interlocutors of the foreign diplomats accredited to their country discussing with them diplomatic issues.

Globalization has pushed the sub-states that make up the federal state to become players on the international stage, especially in light of the expansion of the scope of international treaties. It is no longer limited to regulating political and commercial relations but has expanded to include many issues such as social security, human rights as well as various cultural, development, and economic relations. In most federal constitutions, these issues fall within the jurisdiction of the authorities of the regions and province(sub-state). Some federal constitutions have followed this trend.

The constitutional context in effect in these countries is an important factor in understanding the foreign policy of the constituent unit. We find that the various constitutions clearly define the legal powers related to foreign relations _ if any _ which are formally assigned to the constituent units. For example, Canada and Australia, in which the constitutional

agreements and judicial rulings are specific to the region or province and open the scope of action greatly to the unit that constitutes the federal state. In other countries, such as India, Malaysia, and South Africa, the constitution explicitly assigns powers relating to foreign relations only to the federal government. In these countries, there is limited scope for the external relations of the constituent units of the state. At another end of this spectrum, countries with constitutions that define them with clear powers, such as Argentina, Germany, Switzerland, and Belgium, are in ascending order of empowering the constituent units of the state.

We find that the Canadian constitution has expanded the powers of the regions and states in the international field. There are, for example, representative offices of Quebec in 25 countries run by a separate Ministry of International Relations, as they sign hundreds of agreements with different countries, as is the case with the province of Alberta, which has a large oil wealth that was established in March. 2005 An office of three people within the Canadian Embassy in Washington.[6]

A simple glance at articles 110, 114, and 115 of the Iraqi constitution reveals that the federal government most likely has absolute powers in the formation and implementation of decisions regarding defense and foreign policy in the country.[7] This Iraqi constitution articles illustrates the division of powers and contains three lists: The Federal List article 110, regional List article115, and Joint List article 114. The federal government has the power to enact laws in the subjects mentioned in the specified federal list, while the constituent units (regions and governorates) have the power to enact laws in the subjects that come on the specified regional list. The Joint List includes issues over which both the federal and state governments have a joint authority that is not specified.

In such circumstances, evidence outside the constitutional framework must be considered. Are there instances in which KRG has been able to influence defense or foreign policy decisions in the country through means and practices outside of the constitution?
While the KRG does not actually have constitutional authority over foreign relations, when applied, reality shows something else.

There are three related reasons behind the growing influence of the KRG on foreign policy-making. First, the special constitutional status granted to KRG may give the political leadership a voice in the making of the country's foreign policy. Whereas the government was created before the current republic, and the constitution recognized, retroactively, this government as a political entity that enjoys special privacy. As we see in Article 141.

The KRG was also willing to utilize this opportunity to pursue economic reforms and outreach. and did remarkably well to showcase its strengths to prospective global investors.
What further adds to the significance of KRG's management of foreign policy as subnational diplomacy is that there might be cases where the central government could differ with KRG on ideological and political grounds, which makes it likely that some judgments of Baghdad may not be viewed in the best interest of KRG, and vice versa. Moreover, KRG is often better placed to enhance diplomatic relations with national governments in its neighborhood because of geographical, cultural, historical, and economic reasons.

Second, the political weight of a leader of a constituent unit can influence foreign policy making, albeit informally. This can be seen in the political practices of the KRG in the past ten years, especially the Presidency of the Kurdistan Region, and especially in the war against terrorism and in the field of oil and gas agreements.

Third, the political cleavage and continuous Shia- Shia and Shia- Sunni dispute, which gave birth to a weak coalition government at the federal level, has provided the space for KRG and Kurdish leaders to exert greater influence on foreign policy matters. Especially in the war against terrorism.

Major Challenges

Stumbling of Law

There is an adaptation of the constitutional principles, in the Iraqi constitution, of foreign activities, through the evolution of the competitive binary federal form to the cooperative federal with a great characteristic of pragmatism. Whereas cooperation mechanisms have been put in place. But the main issue that faced this process, is the assiduity of the constitution rules. At least what the last fifteen years tell us is that there has been no and will not be an implementation of the constitution's articles particularly, those that related to foreign relationships.

A tangible example is deferring the implementation of article 121 clause fourth. Where the federal government stated, repeatedly and officially, that the financial consequences of applying this article, and in particular that clause, constitute a major obstacle. Whereas, the government cannot provide a sufficient budget to open representative offices for the region and governorates that are not organized within a region. Certainly, this is a strong subterfuge to evade the implementation of that article. Otherwise, the rampant corruption since 2003 has swallowed up many times of the required budget. Frankly, the external activities of the Kurdistan region, which extend to the field of foreign policy, are the ones that are most problematic with the federal government.

In fact, in most federal countries, whatever the distribution of powers and powers between the federal government and the regions, according to the Federal Constitution, we notice that there is a return to the central state in leading activities and foreign policies. As defining international responsibility in the foreign activities of the regions in the federal state, it remains attributable to the state. Because international responsibility, as a system, still deals with the state in the first place. This will lead to indicate a procedural and practical barrier in front of the sub-state which is reciprocity in the deal.

There is no reciprocity in any foreign relationship that the KRG entered in, as it does not represent a state, but rather a federal unit that enjoys some state privileges. As long as the KRG lacks that legal framework that defines the legal implications of enjoying sovereignty, I mean here enjoying the statehood, then sovereignty, as a legal concept, cannot be relied upon as one of the tools for managing the foreign affairs of the KRG.

However, one of the clearest meanings of sovereignty, apart from the legal concept, is political and economic independence. From simple and fleeting readings of the geopolitical position of the KRG, one can simply understand why it is almost impossible to say that the KRG enjoys political independence. This is understandable at least in practical terms (of course this understanding does not necessarily constitute a justification for the lack of political independence). But it is not reasonable or acceptable that this understanding includes the economic independence of the KRG. In other words, it is necessary to put a big question mark after this sentence: What is the reason behind the economic dependency of the KRG?

Kurdish-Kurdish Political Conflict

We can say that the Kurdish political cleavage is more important than legal challenges that encounter KRG's management of its own foreign policy unilaterally. Because it is connected with the will of Kurds themselves and the extent of their ability to deal with others inside and outside Iraq.
Unfortunately, by precarious reading for what is going on in the Kurdistan region nowadays, we could summarize two basic points which consider as real challenges for KRG to manage foreign policy; First, strong rat race among the political parties and non-existence of unified strategy. Second, various types of corruption.

These two barriers have had played negatively during years ago and get at able, facilitate the Iraqi government to non-implement its political commitments and non-fulfillment of its legal commitments towards KRG.
On another side, the non-existence of one strategy led to the non-existence of one address or declaim guided to deal with neighbor states. Due to those problems they stayed as termed and not approaching the viewpoints in order to achieve a satisfying settlement for each part.

Nevertheless, the non-existence of one strategy inspired regional society and sometimes international society to think about the provincial of Kurds-in-Iraq independence and non-guarantee the future of other minorities in the region. As well as, the spread of corruption in Kurdistan region institutions, gave an improper picture and grunt the pillar of good governance and non-impeachment became a matter of threat to the entity originally.

The study of various forms of corruption in relation to politics and the economic environment, Agree with the negative effects, i.e. high economic, political, and social costs. The political influence of corruption is also manifested through the proverb: examples are attractive! If the top of the politics (government, parties, and leading politicians) is corrupt, then corruption shows at all levels.

So, to overstep these barriers and legal impediments, there is an avital need to speed up a process of political conciliation among the political parties and unify the Kurdish echelon and adoption a strategy and reactivate the constitutional institutions in order to fight corruption.

Taking into consideration that the shift in the role of the actor in international relations that is no longer centered around the state does not necessarily affect the main determinant of state sovereignty, but it creates a demand for more comprehensive, broader, and more flexible arrangements for sharing sovereignty within its borders. The constitution with the KRG. The application and practice of paradiplomacy in developed countries bring the unavoidable consequences that there will be a struggle for the sharing of sovereignty.

Nutshell if the legal barriers prevented, of course relatively, KRG to exercise and manage foreign policy, then Kurdish political cleavage, unfortunately, become a grave obstacle to exercise foreign affairs properly.

[1] Juergen Kleiner The Inertia of Diplomacy, Diplomacy and Statecraft Journal, Taylor & Francis Group, LLC, P. 332. an article (2008), accessible at : https://www.tandfonline.com/doi/pdf/10.1080/09592290802096380

[2] besides the concept of "paradiplomacy," we can find a number of different terms that label a region's performance in the international arena such as "constituent diplomacy," "regional diplomacy," "sub‐state diplomacy," "microdiplomacy," "multilayered diplomacy," "catalytic diplomacy," "protodiplomacy," "post‐diplomacy," and so on. For further information See: https://onlinelibrary.wiley.com/doi/full/10.1111/gec3.12357

[3] https://www.orfonline.org/research/paradiplomacy-india-evolution-operationalisation/

[4] Thomas Jackson, Paradiplomacy and political geography: The geopolitics of sub-state regional diplomacy, 2017. An article accessible on: https://onlinelibrary.wiley.com/doi/full/10.1111/gec3.12357 last visit: November 7, 2020.

[5] However, there were a resolution number 688 by the Security Council of the UN, established a non-fly zone in the north of Iraq which consider, At least from the point of view of international law, as a legal base of existence of this entity.

[6] راوول بليند يناخر, ساندرا باسما, حوارات حول العلاقات الخارجية في الدول الفيدرالية ج 5، ترجمة مها بسطامي, الناشر منتدى الاتحادات الفيدرالية والرابطة الدولية لمركز الدراسات الفيدرالية 2006.ص 27 ـ 28.

[7] In addition of article 120 and 121-Fourth.