

The Discourse System of “Pro-democratic Intervention” of the United States: Theoretical Basis and Development Process

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Abstract

Review Article

To meet the demands of external intervention, the United States has developed a series of intervention discourse systems. The pro-democratic intervention discourse system is one of them. The research on the pro-democratic intervention of the United States is generally based on international law, especially from the perspective of the formation of customary international law. Rarely is there research conducted from the perspective of the development of the discourse system. The goal of this study is to place the pro-democratic intervention of the United States within the framework of the intervention discourse system, and to reveal the theoretical basis and development process of the pro-democratic intervention discourse system. The theoretical basis of the pro-democratic intervention discourse system is the democratic peace theory. Its development has gone through several stages, including from the theory of self-determination to the theory of people's sovereignty, to the theory of invited intervention and the theory of legitimate government. The pro-democratic intervention discourse system of the United States is not an international norm, but rather a set of intervention logic of the United States.

Keywords: American diplomacy; pro-democracy intervention; intervention discourse system.

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INTRODUCTION

The United States frequently engages in external intervention, and its methods are diverse. However, the United States always tries to provide normative basis for its essentially illegal intervention activities, thus forming its unique intervention discourse system. The United Nations Charter protects national sovereignty from foreign intervention aimed at imposing or restoring a specific type of government. Member states have the right to independently choose their own political systems and development paths. In order to break through the “state sovereignty” barrier of external intervention, the United States has long advocated the so-called pro-democratic intervention. Academic research on the United States' pro-democracy intervention is quite abundant, but few studies have revealed its theoretical basis. More importantly, as the United States' intervention actions have developed, especially in the case of the intervention in Syria, it has had to provide new “legal basis” for its new intervention actions. Regarding this practice of the United States, the academic community mainly discusses it from the perspective of international law, but does not examine it from the perspective of the intervention discourse

system, especially the pro-democratic intervention discourse system. Thus, it is difficult to demonstrate the new development of the United States' pro-democratic intervention discourse system. Based on this, the research objective of this paper is to explore the theoretical basis of the United States' pro-democratic intervention discourse system and, combined with the United States' intervention in Syria, to discuss the development of the United States' pro-democratic intervention discourse system.

I. The Essence of the Pro-democratic Intervention Discourse System

pro-democratic intervention refers to the kind of intervention that is claimed to be carried out with the aim of promoting democracy, protecting democracy, expanding democracy, etc. Its core viewpoint is that any intervention that was originally illegal can be considered legitimate if it is intended to support “democracy” (of course, this refers to the so-called Western-style democracy), and countries without democratic governments cannot fully benefit from the non-intervention principle.

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The discourse system of pro-democratic intervention tightly links “democracy” and “intervention” by establishing “international standards” for representative governments and legitimate governments. Its essence is reflected in two aspects: First, only “democratic governments” can represent the people of a country and can fully benefit from the “non-intervention principle”;¹ second, only “legitimate” governments with “legal sources” are considered legitimate governments, and illegal governments should not be recognized and should be overthrown.² The discourse system of pro-democratic intervention serves the following intervention activities: restoring overthrown democratic governments; actively and proactively establishing so-called democratic countries.³ “In powerful democratic countries, people may also believe that democracy is the best form of government and should be implemented everywhere.”⁴

II. The Theoretical Foundation of the Pro-democratic Intervention Discourse System

The pro-democratic intervention discourse system has its theoretical basis-the democratic peace theory. For a long time, people have been asking and discussing what the effective elements of international peace are. Clearly, there are different viewpoints to answer such questions. One of them is the liberalist viewpoint. Most liberals firmly believe that democracy is the answer and the only way to establish international peace around the world. Therefore, they believe that spreading democracy is very important to advance and maintain international peace. Democracy is regarded as a solution to achieve peace, and the two are mutually reinforcing.⁵ Why can democracy achieve peace? To this question, the democratic peace theory to some extent provide the answers.

The theory of democratic peace holds that democratic countries rarely or almost never engage in wars with each other. Similarly, the “theory of democratic peace” also suggests that compared to other pairs of countries, the members of pairs of democratic countries are much less likely to get into serious disputes other than wars, and democratic countries in general are more peaceful than other types of countries. Russett, a proponent of the theory of democratic peace, explains: (a) Democratic countries rarely fight each other (an

empirical statement), because (b) they have other means to resolve conflicts, so they don’t need to fight each other (a prudent statement), (c) they believe that democratic countries should not fight each other (a normative statement about the principle of correct behavior), which reinforces the empirical statement. Based on this reasoning, the more democratic countries there are in the world, the fewer potential opponents we have with other democratic countries, and the wider the area of peace will be.⁶

In short, the “democratic peace theory” can be understood from two perspectives. From the first perspective, it is argued that democratic countries rarely engage in conflicts with each other and that peace can only be achieved with the presence of two democratic countries. It is usually based on the common culture and democratic norms among democratic countries, or on the institutional restrictions on the behavior of leaders. That is to say, the structure of democratic governments makes it difficult for leaders to wage wars. Moreover, this perspective indicates that democratic countries will carefully identify the types of countries with which they interact and adjust their behaviors accordingly. From the second perspective, it is argued that regardless of the type of the opponent’s regime, democratic countries are less willing to use force, and the more democratic a country is, the less violent its behavior towards other countries will be. In other words, democratic countries are less likely to view war as a possible option for their foreign policy; force is not regarded as a legitimate tool of foreign policy but is seen as the last option; the type of the opponent’s regime does not play a key role in the decision-making of democratic countries to go to war.

When discussing the “democratic peace theory”, a frequently raised question is: In what way does democracy strengthen international peace? For this, there are two explanations. The first one is called the structural dimension explanation of democracy, which claims that the separation of powers, checks and balances, and the responsibility of leaders towards the public make the decision-making process complex and slow, allowing the leaders of democratic countries to reach peaceful agreements on their conflicts. The second type is known as the normative dimension explanation of democratic societies. It holds that norms play a role in the

¹ Cedric, Ryngaert, “Pro-democratic Intervention in International Law,” Institute for International Law Working Paper, No. 53, 2004, pp. 3-4.

² Brad R. Roth, “Governmental Illegitimacy Revisted: ‘Pro-Democratic’ Armed Intervention in the Post-Bipolar World,” *Transnational Law and Contemporary Problems*, Vol. 3, 1993, p. 483.

³ Lane Kenworthy, “US Military Intervention Abroad,” May 1, 2023, <https://lanekenworthy.net/us-military-intervention-abroad/>.

⁴ Camille McGinnis, “Foreign Intervention in Building Democracies: Does It Set Them Up for Failure?” April

27, 2022, <https://www.democratic-erosion.com/2022/04/27/foreign-intervention-in-building-democracies-does-it-set-them-up-for-failure%E2%82%AC%91%E2%82%AC%91/>.

⁵ See Munafrizal Manan, “The Democratic Peace Theory and Its Problems,” *Jurnal Ilmu Hubungan Internasional*, Vol. 10, No. 2, 2014, pp. 180-182.

⁶ Bruce Russett, *Grasping the Democratic Peace: Principles for a Post-Cold War World*, Princeton New Jersey: Princeton University Press, 1993, p. 9.

relationships among democratic countries, and therefore they have a greater willingness to reach compromises, allowing conflicts to be resolved peacefully. In this regard, political conflicts in democratic countries are resolved through compromise rather than by eliminating opponents.⁷

There are three other similar explanations that confirm the role of democracy in strengthening peace. Some studies emphasize the role of political culture; some studies highlight the deterrent effect of trade; and others stress the ability of democratic regimes to restrain the “overseas actions” of their leaders.⁸ The first view holds that “the principles for resolving conflicts peacefully are widespread in democratic countries. This principle eliminates the possibility of resorting to violence to resolve any disputes that may arise within democratic countries. Moreover, the norms for resolving conflicts within democratic countries also regulate the resolution of disputes between them. If the interests of two democratic countries conflict, each of the relevant countries hopes that the other will sit down for negotiations rather than resort to force. The second explanation “emphasizes the role of trade in preventing the resort to force”, as well as the tendency of democratic countries to increase trade and maintain lower trade barriers. In the last explanation, “the relatively limited autonomy of democratic country leaders plays a central role”. Leaders are constrained and monitored by “opposition leaders, regular elections, and a legislative body capable of sanctioning them”, so they cannot decide whether to participate in the war based on their own decisions. In summary, the above theories and explanations emphasize the function of democracy in achieving international peace. Democracy is regarded as a self-restraint mechanism for war.

The theory of democratic peace has received both support and opposition from scholars in various fields. In some cases and at certain times, there seems to be strong evidence supporting the validity of the democratic peace theory. However, it is difficult to make a general statement that the democratic peace theory can be universally applicable. This is why some scholars criticize and oppose the democratic peace theory by exposing its flaws.

Ironically, when the belief in “democratic peace theory” became the foundation of US foreign policy, more studies are now beginning to uncover certain

limitations of this theory. Firstly, Snyder and Edward Mansfield pointed out that when a country is in a democratic transition period, it may be more prone to war, which means that efforts to export democracy might actually make things worse. Secondly, critics such as Joanne Gowa and David Spiro argued that the obvious absence of war among democratic countries is due to the way democracy is defined and the relative scarcity of democratic countries (especially before 1945). Moreover, Christopher Layne noted that when democratic countries were close to war in the past, their decisions to maintain peace ultimately had little to do with their common democratic characteristics. Again, the clear evidence that democratic countries do not fight each other is limited to the post-1945 era, as Gowa emphasized, and this period’s lack of conflict may be more due to their common interests in containing the Soviet Union rather than common democratic principles.⁹

In any case, it is obvious that the “democratic peace theory” has provided a theoretical basis for the construction of the discourse system of “pro-democratic intervention”.

III. The Evolution of the Pro-democratic Intervention Discourse System

The evolution of the pro-democratic intervention discourse in the United States is closely intertwined with its intervention practices. pro-democratic intervention in its early stages was primarily related to protecting democratic regimes or restoring those that had been overthrown. It refers to the intervention by a country, a group of countries, or a regional organization into another country, involving the threat of using or actually using force to protect or restore a government formed through democratic means, preventing it from being illegally and/or violently seized by power, especially when such a seizure of power threatens a large portion of the population of a country, causing large-scale death or suffering.¹⁰ pro-democratic intervention is a developing term and phenomenon because both international law, human rights law, and emerging democratic mechanisms are constantly changing, and also because the discourse of pro-democratic intervention seems to introduce several independent international law norms, including consent, self-determination, and humanitarian intervention doctrines (doctrines). All these doctrines intersect with

⁷ Miriam Fendius Elman, “Introduction. The Need for a Qualitative Test of the Democratic Peace Theory,” in Miriam Fendius Elman (ed.), *Paths to Peace: Is Democracy the Answer?* CSIA Studies in International Security, Cambridge, Massachusetts: The MIT Press, 1997, p. 17.

⁸ Joanne Gowa, *Ballots and Bullets: The Elusive Democratic Peace*, Princeton, New Jersey: Princeton University Press, 1999, pp. 6-7.

⁹ Stephen M. Walt, “International Relations: One World, Many Theories,” *Foreign Policy*, No. 110, Spring, 1998, p.39.

¹⁰ Jeremy I. Levitt, “Pro-Democratic Intervention in Africa,” *Wisconsin International Law Journal*, Vol. 24, No. 3, 2006, p. 789.

the evolving democratic norms or what Thomas Franck calls “democratic rights”.¹¹

Within the framework of the United Nations Charter, promoting human rights and fundamental freedoms is the foundation of democratic rights. In this regard, the United Nations increasingly supports democratic governance, especially in peacekeeping activities. Nevertheless, the use of force to achieve democratization still poses significant problems, as the principle of non-interference is deeply rooted in the current international system, although it has changed after the Cold War.¹² The United Nations Charter is interpreted as protecting national sovereignty from foreign interference aimed at imposing or restoring a specific type of government. Although the United Nations generally favors democracy, its election monitoring assistance is evidence of this, yet member states have the right to choose a non-democratic political structure, regardless of how morally repugnant such a choice may be. pro-democratic intervention involves the use of force, and is naturally constrained by the principle of sovereignty and the principle of non-interference, etc.

However, the United Nations Charter explicitly stipulates three exceptions to the prohibition of the use of force. Firstly, it exempts the use of force against the former enemy countries of World War II. This exception has become outdated as the relevant countries have joined the United Nations. Secondly, it allows the Security Council to take enforcement actions based on the powers granted by Chapter VII of the United Nations Charter. The third exception is the right of self-defense as stipulated in Article 51. The Charter recognizes and upholds the right of a country to individual and collective self-defense. Therefore, if one country uses force against another country to protect itself from armed attack, it is within its rights and legal scope. Any self-defense measures must be reported to the United Nations Security Council. It is necessary to add that if a country agrees to deploy force, the use of force on its territory is permitted. Apart from these exceptions, all other uses of force are concentrated in the hands of the Security Council to maintain international peace and security. Therefore, for “pro-democratic intervention” to be legal, it must comply with the exceptions to the prohibition of the use of force stipulated in the United Nations Charter. The first issue to consider is how to obtain the support of the United Nations Security Council for pro-democracy intervention activities.

(I) From “the Right of Self-Determination” to “People’s Sovereignty”

In order to gain the support of the UN Security Council for intervention, and to break through the restrictions imposed by principles such as the principle of sovereignty on intervention, the initial pro-democratic intervention discourse linked intervention with the right of self-determination. Michael Reisman, in a widely cited paper in 1984, pleaded for support for the right of self-determination to promote democracy. Reisman’s proposal was to use the internal right of self-determination to restrict the prohibition of the use of force in Article 2, Paragraph 4 of the UN Charter. He believed that liberating a country from what he called the oppressors would not conflict with Article 2, Paragraph 4, because the purpose of using force was not to undermine the political independence and territorial integrity of the target country. Instead, Reisman believed that such intervention would improve the opportunity for self-determination. He said: “Every application of Article 2, Paragraph 4 must increase the opportunity for continuous self-determination. Although all intervention measures are regrettable, the fact is that, in terms of overall consequences, some intervention measures may increase the possibility for the people of various countries to freely choose their governments and political structures.”¹³ That is to say, in Reisman’s view, if military intervention can promote the possibility for the people of various countries to freely choose their governments and political structures, then the international community should not prevent or limit such intervention behavior by the principle of prohibiting the use of force, and it implies that the UN Security Council should agree to such military intervention.

Opponents usually believe that this pro-democratic intervention theory will give the most powerful countries unrestricted power to overthrow so-called oppressive and non-democratic governments.¹⁴ Moreover, the authorization of the UN Security Council to use force is generally aimed at actions that pose a significant threat to international peace and security. The political situation within a country is unlikely to have such an impact. Thus, another viewpoint in support of pro-democratic intervention emerged. The core idea of this view is that sovereignty is based on the people rather than the state. According to this liberal perspective, the international rights of the government stem from the rights and interests of the individuals that constitute the country. Only representative governments have international rights because, according to the Kantian

¹¹ Jeremy I. Levitt, “Pro-Democratic Intervention in Africa,” *Wisconsin International Law Journal*, Vol. 24, No. 3, 2006, p. 788.

¹² Müge Kınacıoğlu, “Forcing Democracy: Is Military Intervention for Regime Change Permissible?” *All Azimuth: A Journal of Foreign Policy and Peace*, Vol. 1, No. 1, 2012, p. 36.

¹³ See W Michael Reisman, “Coercion and Self-Determination: Construing Charter Article 2(4),” *American Journal of International Law*, Vol. 78, No.3, 1984, pp.643-644.

¹⁴ See Oscar Schachter, “The Legality of Pro-Democratic Invasion,” *American Journal of International Law*, Vol. 78, No.3, 1984, pp. 645-650.

interpretation of the state, the ultimate moral agent is not the state but the individual, who obligates the government to guarantee basic human rights.¹⁵ Therefore, autocratic governments have been deprived of the protection granted to them by international law through sovereignty. In other words, “tyranny and anarchy lead to the moral collapse of sovereignty”.¹⁶ Therefore, this view holds that “any country with the will and resources can intervene to protect the people of another country from... tyranny,” and the important means to achieve this protection is to establish a representative democratic government in that country.

A country is an entity composed of territory, population and public authorities. In international law, the legal entity is the state, and the government (government) is, in normal circumstances, the representative of the state and has the authority to act on its behalf. Traditionally, a government of a country is generally regarded as the representative of its people, regardless of the form of this government. However, in the discourse of pro-democratic intervention, not all governments are the representatives of the people and have the qualification to act on behalf of the state. Only the elected government is considered to represent the people and their atomistic sovereignty, and only the elected government can truly embody the sovereignty of the state. Under this premise, conducting pro-democratic intervention becomes a logical action: since only democratic governments are the representatives of state sovereignty, any democratic country has the right, and even the obligation, to overthrow non-democratic governments in order to restore the complete sovereignty of the state.¹⁷ Some scholars believe that this is surprisingly consistent with the text of Article 2, Paragraph 4 of the Charter, because support for democracy in intervention is not specifically aimed at the “territorial integrity” of another country, and even helps to achieve the “political independence” of that country. D’AMATO pointed out that the principle of sovereignty only prohibits “territorial expansion or colonialism”.¹⁸

Nevertheless, in its judgment on Nicaragua, the International Court of Justice held that there is no unilateral right to intervene by force based on political and moral considerations.¹⁹ Besides international

litigation, opponents further pointed out that although the concept of sovereignty has undergone certain changes since the adoption of the UN Charter, it is still unclear whether democracy has replaced peace as the main interest of the United Nations and the international normative order. Moreover, it did not clearly explain how “democratic governance” as a right is superior to the peremptory norm, that is, the prohibition of the use of force.²⁰

(II) From “People’s Sovereignty” to “Invited Intervention”

The approach of “replacing national sovereignty with people’s sovereignty” still fails to provide sufficient legal basis for pro-democratic intervention, especially when such interference is usually carried out in a military form. This was the case with the 1983 US intervention in Grenada. Grenada is an island in the Eastern Caribbean. Its elected government was overthrown by a military regime described as Marxist. At the request of the ousted government, the US Marine Corps and paratrooper units overthrew the military regime within three days and restored a democratic government.²¹

Although the US invasion of Grenada was described as pro-democratic intervention, neither the “right to self-determination” theory nor the “people’s sovereignty” theory can provide sufficient legal basis. Regarding the US invasion of Grenada, some scholars mentioned a letter from a legal advisor to the State Department. According to the advisor, the US took action to intervene and protect its citizens at the invitation of the Grenadian governor and at the request of the Organization of Eastern Caribbean States.²² This means that when the UN Security Council was unwilling to consider an internal threat to democracy as sufficient to constitute a threat to international peace and thus activate the collective security system, the US began to use the “invitation” to provide legal cover for its pro-democratic intervention, because as pointed out above, a country can legally use force on the territory of another country not only for self-defense or with the authorization of the Security Council, but also with the consent or acquiescence of the target country.

¹⁵ Fernando R. Teson, “Eight Principles of Humanitarian Intervention,” *Journal of Military Ethics*, Vol. 5 No.2, 2006, p. 94.

¹⁶ Fernando R. Teson, “Eight Principles of Humanitarian Intervention,” *Journal of Military Ethics*, Vol. 5 No.2, 2006, p. 96.

¹⁷ See Ryngaert, Cedric “Pro-democratic Intervention in International Law,” K.U. Leuven, Faculty of Law, Institute for International Law, Working Paper, No. 53, April 2004, pp.3-4.

¹⁸ A. D’AMATO, “The Invasion of Panama Was a Lawful Response to Tyranny”, *American Journal of International Law*, 1990, p. 520.

¹⁹ *ICJ Reports* (1986), para. 206.

²⁰ Michael Byers and Simon Chesterman, “‘You, the People’: Pro-Democratic Intervention in International Law,” in *Democratic Governance and International Law*, ed. Gregory H. Fox and Brad R. Roth, Cambridge: Cambridge University Press, 2000, 269.

²¹ See L. Doswald-Beck, “The Legality of the United States Intervention in Grenada,” *Indian Journal of International Law*, Vol. 31, No. 3, 1984, pp.200-223.

²² Michael Byers and Simon Chesterman, “‘You, the People’: Pro-Democratic Intervention in International Law,” in *Democratic Governance and International Law*, ed. Gregory H. Fox and Brad R. Roth, Cambridge: Cambridge University Press, 2000, 272-273.

The Security Council reaffirmed in 1976 that “each country has the inherent and legitimate right to request assistance from any other country or group of countries when exercising its sovereignty”.²³ Later, Article 20 of the *Draft Articles on State Responsibility* (2001) stipulated: “The effective consent of one state to the conduct of a certain act by another state excludes the illegality of that act for the former state, provided that the act remains within the scope of that consent.”²⁴ Therefore, the consent of the target country for the intervention by the intervening country is higher than any prohibition on the use of force as stipulated in Article 2, Paragraph 4 of the UN Charter.

However, the legality of the pro-democratic intervention that is invited involves issues such as the qualifications of the invitation, that is, what kind of invitation is legal. In the field of international law, the “invited intervention” will give rise to two main issues, namely the substantive consent issue and the procedural consent issue. The former concerns the qualification of the consent of the internal conflicting parties. The analysis of this issue requires clarifying which party has the authority to invite or consent to external intervention, which are complex legal issues. Different from the substantive consent issue, the procedural consent issue has nothing to do with internal legality and basically does not consider the substantive characteristics of the relevant parties. For example, one of the basic premises in such issues is whether the consent is truly expressed rather than the product of some form of external coercion.²⁵ Consensual intervention is only governed by the 1969 *Vienna Convention on the Law of Treaties* when the consent needs to be expressed in the form of an international treaty. The basic conditions for applying the *Vienna Convention on the Law of Treaties* are that the treaty must be signed between states and not between a state and an opposition organization or a non-state actor. Once the intervention agreement is regarded as a treaty, the two basic provisions in the *Vienna Convention on the Law of Treaties* have special significance: the first is the obligation to abide by the treaty, which imposes an obligation on the intervening state to limit its intervention within the agreed scope; the second is that an agreement based on compulsory consent is invalid because it is the result of illegal force threat or the use of force. These two basic provisions also apply to

intervention agreements that do not constitute a strict sense of a treaty.²⁶

Regarding “invited intervention”, the International Court of Justice stated in its 1986 judgment on Nicaragua: “Interference that has already been considered a legitimate act at the request of a country’s government would leave very little of the principle of non-interference in international law if it were also permitted at the request of opposition groups. This would allow any country to interfere in the internal affairs of another country at any time.”²⁷ “Since a country has the right to oppose foreign interference, the consent issued by a rebel group cannot reduce the illegality of the intervention, because this intervention opposes the representatives of the state - the government.”²⁸ Additionally, as mentioned above, if the consent is not signed between states but between a state and an opposition organization or a non-state actor, it is not governed by the *Vienna Convention on the Law of Treaties*. Therefore, it can be considered that: Generally, an invitation from the government provides a legal basis for intervention, while an invitation from an anti-government organization (including a local government of a country) cannot provide a legal basis for intervention.

Obviously, pro-democratic intervention can only be carried out by inviting another country to intervene on behalf of democracy when the current (democratic) government invites such intervention to protect democracy. Democratic factions outside the government cannot invite other countries to overthrow a non-democratic government. However, the problem is that the assisting countries are often only required to intervene after the democratic government is ousted by the military government. Although France and the United Kingdom have both carried out rapid and small-scale intervention actions in their former colonies in Africa to support the democratic government that was ousted by the military government, the right to conduct pro-democratic intervention at the request of the democratic government to have been overthrown and restore its regime is still difficult to become a rule of customary international law. This rule needs the strong support of the international community because it derogates the prohibition on the use of force, which is a mandatory legal norm of international law. Moreover, it

²³ UN Doc. SC Res. 387 (1976).

²⁴ International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, 2001, <http://www.un.org/law/ilc/archives/statresp.htm>.

²⁵ Eliav Lieblich, “Intervention and Consent: Consensual Forcible Interventions in Internal Armed Conflicts as International Agreements”, in *Boston University International Law Journal*, Vol. 29, No. 2, 2011, pp. 340-341.

²⁶ Eliav Lieblich, “Intervention and Consent: Consensual Forcible Interventions in Internal Armed Conflicts as International Agreements,” *Boston University International Law Journal*, Vol.29, No.2, 2011, pp. 357-362.

²⁷ Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment. I.C.J. Reports 1986, p. 126.

²⁸ Gregory H. Fox, “Intervention by Invitation,” *Wayne State University Law School Legal Studies Research Paper Series*, No. 4, 2014, p. 1.

can be clearly seen from the judgment of Nicaragua and the *Friendly Relations Declaration* that external interference in civil wars, regardless of which side it is beneficial to, may distort a country's free choice of its political, economic, social and cultural institutions.²⁹ Therefore, scholar Gray believes that only in the case of an external subversion event against the government or a domestic unrest that does not include a civil war, inviting intervention, whether in support of democracy or not, is allowed.³⁰ Gray believes that if a civil war - almost literally - is defined as a war between political factions representing a considerable portion of the civilian population, then interference in it is not allowed.

(III) Introduction of the Concept of a Legitimate Government

Obviously, in order for the pro-democratic intervention (restoring the rule of the democratic government) based on the invitation from the overthrown so-called democratic government to be at least perceived as legitimate, the issue of the eligibility of the overthrown so-called democratic government must be resolved. To this end, some scholars have begun to emphasize the concept of legitimacy. For instance, Wippman claims that legitimacy is very important.³¹ He believes that in a full-scale civil war, both sides represent a considerable portion of the population, so they can claim legitimacy, and pro-democracy intervention will be prohibited. However, when the "democratic" side, which is considered legitimate by the people, is overthrown by the so-called "undemocratic" side, other countries will have the right to intervene in order to restore the democratic regime. The concern for legitimacy is not in contradiction with the decisions of the International Court in the Nicaragua case and the *Declaration of Friendly Relations*. Indeed, violently overthrowing a democratically elected government and establishing a military regime is definitely not a "free choice" of a country regarding its political system. Choice is inextricably linked to legitimacy: only a political faction supported by the majority of the people can pursue legitimacy and thereby choose the political system of the country. On the contrary, a government representing only a minority or merely itself forcibly implementing non-democratic rule does not conform to the concept of sovereignty choice proposed in the *Declaration of Friendly Relations*. This does not mean that, in essence, a non-constitutional and undemocratic

coup cannot reflect public opinion. If empirical observations show that the regime formed after the coup is considered legitimate by the people, then the argument for legitimacy will turn to support the coup leaders and prevent external pro-democracy intervention.³²

This kind of argument regarding the legitimacy of a country's political power is closely linked to the recognition of a country's government. If a political force in a country is regarded as legitimate, it means that the government represented by that political force is legitimate and should be recognized. Such a government is then fully qualified to invite interference from other countries, even if it has been overturned. A country can exclude pro-democratic intervention through the consent of a recognized regime representative internationally. Clearly, this kind of intervention discourse not only changes the traditional theory on the legitimacy of the government, but also alters international law regarding recognition. It has not gained universal international support.

According to international law, the sole prerequisite for recognizing a government is that it effectively exercises sovereignty (and this is the first and most important aspect, as it controls the majority of territory and administrative institutions).³³ Of course, if the current government is forced into exile due to foreign occupation, or if the de facto governing body is established in violation of international law, then various countries can continue to recognize the exiled government. However, the discourse of pro-democratic intervention closely links the recognition of a government originally based on the "principle of effective governance" with the legitimacy of the government, arguing that only so-called legitimate governments can be recognized, regardless of whether this government can effectively govern. So, what is a legitimate government?

The legitimacy of the government is closely related to the public's recognition of it. Fundamentally, this is a domestic political issue rather than an international political or legal one. International law is neutral regarding the legitimacy of the government and there are no international standards for evaluating it. For a government to come to power in a form that conforms to the relevant laws of its own country (these laws are not necessarily Western-style laws), it is a necessary but not

²⁹ See ICJ, *Nicaragua*, ICJ Reports, 1986, p. 101, para. 191. Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, GA Res. 2625 (XXV) (1970): "Every State has an inalienable right to choose its political, economic and cultural systems, without interference in any form by another State."

³⁰ See C. GRAY, *International Law and the Use of Force*, Oxford: Oxford University Press, 2000, p. 57.

³¹ Wippman, D., "Pro-Democratic Intervention by Invitation," in G. H. Fox, & B. R. Roth, eds., *Democratic Governance and International Law*, Cambridge: Cambridge University Press, 2000, p. 299.

³² Gregory H. Fox, "Intervention by Invitation," *Wayne State University Law School Legal Studies Research Paper Series*, No. 4, 2014, p. 9.

³³ "The Recognition of States and Governments under International Law," https://www.eda.admin.ch/dam/eda/en/documents/aussepolitik/voelkerrecht/PDF_Anerkennung_en_05.pdf.

sufficient condition for its legitimacy.³⁴ However, the discourse system of pro-democratic intervention attempts to set international standards for the legitimacy of the government, emphasizing that the source of the government must be legal, meaning that the government must be elected in accordance with a similar Western legal system; otherwise, it is an illegal government. An illegal government cannot be recognized and should step down or even be overthrown. Thus, there emerged the so-called “contemporary version of the ‘illegitimacy theory’, that is, force can be appropriately used to overthrow a government that is allegedly lacking internal legitimacy”.³⁵ Whether a government is legitimate depends on whether it is legally elected through democratic elections. That is to say, according to the original pro-democratic intervention discourse system of the United States, the legal election of the government through democratic means is both a necessary and sufficient condition for the legitimacy of the government.

Although “general or regional customary international law does not stipulate that an actual government must be democratically elected in order to be recognized as a government under international law”,³⁶ the United States has used this statement to carry out pro-democratic intervention in countries such as Haiti. In reality, since the end of the Cold War, under the guise of the pro-democratic intervention discourse, the recognition of new governments that overthrew the original so-called democratically elected governments has almost always been systematically rejected. This is demonstrated by the international reactions after the coups in Sierra Leone, Haiti, Burundi, Niger, Côte d’Ivoire, Guinea-Bissau and Togo. Of course, the coup authorities were sometimes recognized, but it is worth noting that in these cases, the new governments either had promised to organize elections within a reasonable time, or had been established by overthrowing the dictatorships that the United States considered to be.

In order to support a so-called democratic and legitimate government that has been overthrown, so-called pro-democratic intervention was carried out. By inviting the leaders of the overthrown government and granting the government legitimacy and recognition, it cannot legalize the unilateral pro-democratic intervention. To make such unilateral pro-democratic intervention legal, authorization from the United Nations

Security Council is still necessary. However, it has been shown that the United Nations Security Council is currently unwilling to consider an internal threat to democracy as sufficient to constitute a threat to international peace and thus activate the collective security system. According to Chapter VII of the UN Charter, the Security Council can only take measures when international peace and security are threatened. The Security Council cannot interfere and impose so-called democracy on a UN member state because the choice of government type is essentially a domestic issue and does not pose a threat to international peace and security, although some claim that based on a broad interpretation of such threats, overthrowing a democratic government may endanger international peace and security, as it may lead to refugee flows or an unelected government taking hostile actions against neighboring countries.³⁷ “The United Nations Security Council has no clear subsequent practice of classifying the internal threat to a country’s democratic constitution as a threat to peace within the meaning of Article 39 of the UN Charter.”³⁸ In the absence of authorization from the United Nations Security Council, for the so-called ‘pro-democracy intervention’ conducted under the pretext of being invited to interfere to have legitimacy, it is still necessary to resolve the issue of which political force in the target country has the qualification to invite, or which party is recognized as the representative of that country—this must be confirmed by the United Nations, and cannot rely solely on the attitude of the intervening country. In determining who has the right to give consent, the United Nations Security Council can play an important role in determining whether the characteristics of democratic legitimacy are important and to what extent they are important. Given the multiple flaws of the United Nations Security Council, one might criticize its prominent role. However, currently no other body can ensure international consensus-based decisions on interference measures inspired by democracy.³⁹

(IV) Update of the Concept of a Legitimate Government

During the intervention in Syria, the United States carried out a series of illegal activities. In the early stage of the intervention in Syria, the United States was particularly keen on regime change in Syria, recognizing the Syrian opposition as the legitimate representative of the Syrian people, and openly claiming that the Assad government in Syria should step down. However, openly

³⁴ Yang Guangbin, *Introduction to Political Science*, People’s University of China Press, 2007, p. 46.

³⁵ Brad R. Roth, “Governmental Illegitimacy Revisted: ‘Pro-Democratic’ Armed Intervention in the Post-Bipolar World,” *Transnational Law and Contemporary Problems*, Vol.3, 1993, p.483.

³⁶ “Recognition of States and Governments in International Law,” <https://karabakh.org/articles/recognition-of-states-and-governments-in-international-law/>.

³⁷ See M. Glennon, “Sovereignty and Community after Haiti: Rethinking the Collective Use of Force,”

American Journal of International Law, Vol. 89, No. 1, 1995, p. 72.

³⁸ Claus Kreß & Benjamin Nußberger, “Pro-Democratic Intervention in Current International Law: The Case of the Gambia in January 2017,” *Journal on the Use of Force and International Law*, Vol. 4, No. 2, 2017, p. 243.

³⁹ Claus Kreß & Benjamin Nußberger, “Pro-Democratic Intervention in Current International Law: The Case of the Gambia in January 2017,” *Journal on the Use of Force and International Law*, Vol. 4, No. 2, 2017, p. 252.

attempting to overthrow the regime of a country is a serious violation of international law. In order to make the regime change operation in Syria “legitimate”, the United States not only utilized the pro-democratic intervention discourse system but also updated and developed it.

As mentioned above, “legitimate government” is the core concept of the pro-democratic intervention discourse system. The view that a government is legitimate only when it has a “legitimate origin” largely relies on the assumption that free and fair elections must go hand in hand with respect for human rights. From the perspective of the United States, its political practice indicates that this assumption is incorrect. Although the governments of countries like Syria were elected through democratic means, meaning they are legally legitimate in terms of their origin, they have abused the power entrusted to them and violently suppressed protesters, seriously violating human rights. The way a government exercises its power needs to become the focus of examination when assessing the legitimacy of the government.

This demonstrated to the United States the focus for updating its original pro-democratic intervention discourse system, prompting it to restructure the concept of a legitimate government. The specific method of reconfiguration is to change the criteria for a legitimate government, add conditions for “legitimate government”, and expand the connotation of “legitimate government” while reducing its scope. The new concept of a legitimate government includes two conditions: the first is “legitimate source”, and the second is “legitimate operation”, meaning that the government must abide by the basic elements of democracy when exercising power and cannot seriously infringe upon the human rights of its citizens. Both of these conditions are necessary for the new pro-democratic intervention discourse system and together constitute its necessary and sufficient conditions. The updated pro-democratic intervention discourse system includes the following new contents: if a government uses force against its citizens (the operation of power is not legitimate), then it loses its legitimacy and should not be recognized and should step down.

CONCLUSION

pro-democratic intervention refers to the interference carried out with the aim of promoting, protecting, and expanding democracy. Its core viewpoint is that any interference that was originally illegal can be considered legitimate if it is intended to support “democracy” (which, of course, refers to the so-called Western-style democracy). Moreover, countries without democratic governments cannot fully benefit from the “non-intervention principle”. The theoretical basis of pro-democratic intervention is the “democratic peace theory”. For a long time, people have been asking and discussing what the effective elements of international

peace are. Clearly, there are different viewpoints to answer such questions. One of them is the liberal perspective. Most liberals firmly believe that democracy is an answer and the only way to establish international peace worldwide. Therefore, they believe that spreading democracy is very important to advance and maintain international peace. Thus, democracy is regarded as a solution to achieve peace, and the two are mutually reinforcing. Therefore, democratic peace theory not only provides a theoretical basis for pro-democratic intervention, but also offers a moral basis for it. After all, “peace” is what people of all countries pursue.

pro-democratic intervention discourse system serves the illegal interference of the United States and Western countries, providing a normative basis for their intervention activities. Initially, intervention was linked to “self-determination rights”, and later it was linked to “people’s sovereignty”, believing that sovereignty is based on the people rather than the state. Only democratic governments represent the sovereignty of the state, and any democratic country has the right and even the obligation to overthrow non-democratic governments in order to restore the complete sovereignty of the state.

However, the “self-determination rights theory” and the “people’s sovereignty theory” cannot provide sufficient normative support for the use of force to intervene in other countries in the name of maintaining democracy. Thus, the “invited intervention theory” emerged. However, the “invited intervention theory” faces the problem that the inviter does not have the qualification to invite, as they are mostly leaders of the so-called democratically elected governments that have been overthrown. In this situation, the concepts of “legitimacy” and “legitimate government” were introduced, stating that only the power representing the people is legitimate, even if the government it represents is overthrown, it still has the qualification to invite other countries to intervene.

To meet the new needs of intervention, the pro-democratic intervention discourse system has also introduced the concept of “legitimate government”, by establishing “international standards” for representative governments and legitimate governments, closely linking “democracy” with “intervention”. Its essence is reflected in two aspects: first, only “democratic governments” are the representatives of the people of the country and can fully benefit from the “non-intervention principle”; second, and only when the “source is legal” is a government a legitimate government, illegal governments should not be recognized and should be overthrown. The pro-democratic intervention discourse system serves the following intervention activities: restoring overthrown democratic governments; conducting flexible or coercive regime changes in so-called non-democratic countries; actively and proactively establishing so-called democratic countries. In the process of the United States’ intervention in Syria,

the “source of legality” standard of the legitimate government has no longer been able to meet the needs of its intervention activities in Syria, especially the need for regime change in Syria, so it began to expand the connotation of “legitimate government” and reduce its extension, believing that a legitimate government, in addition to “source of legality”, also needs “legitimate

operation”, that is, it cannot use force to suppress the people of the country.

The pro-democratic intervention discourse system is the hegemonic logic of the United States to infringe upon the sovereignty of other countries and even to carry out regime changes.