

Research on the Legitimacy of Overseas Military Bases from the Perspective of Constructivism—Taking the U.S. Overseas Military Bases as an Example

Zhangping Wang

School of Law, Wuhan University, Wuhan, 430072, China

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Abstract: Overseas military bases are significant issues in the field of international security. A comprehensive review of domestic and foreign research reflects that opinions on the legitimacy of overseas military bases vary from country to country. This paper studies the legitimacy of overseas military bases from the perspective of constructivism. Taking the United States, which has the largest number of military bases worldwide, as an example, this paper conducts an empirical study on three types of bases: overseas military bases with lacking legitimacy (the U.S. military bases in Iraq), overseas military bases with insufficient legitimacy (the U.S. military bases in Japan), and overseas military bases with sufficient legitimacy (the U.S. military bases in Djibouti). The following conclusions are drawn: The legitimacy of overseas military bases depends on three factors--the legitimacy of international wars, the degree of compliance with international norms, and the recognition of the host countries.

1. Controversies over the Legitimacy of Overseas Military Bases

Overseas military bases serve as crucial hubs for military powers to maintain the security of their overseas citizens, trade and investment, as well as their global/regional influence. Research on overseas military bases involves multiple disciplines such as military science, political science, and law, making it an important research topic. The overseas military bases discussed in this article mainly include the following elements: First, the establishing entities of overseas military bases are sovereign states and international military organizations. From this perspective, the logistical supply stations established by United Nations peacekeeping operations do not fall within the scope of this study. Second, the use of overseas military bases involves a triangular relationship among the leasing country, the host country, and potential military adversaries, which include not only national regular armies but also pirates, terrorist organizations, and non-governmental armed groups. If the aforementioned tripartite relationship is lost, the significance of the existence of overseas military bases ceases to exist. Third, the military personnel of the leasing country stationed at overseas military bases, along with their accompanying family members and civilian staff, have criminal immunity. Especially when carrying out missions, the military personnel of the leasing country at overseas military bases have complete independence and are not subject to the jurisdiction of the

host country. Fourth, overseas military bases are a product of the host country's transfer of sovereign rights to the leasing country, and the territorial jurisdiction of the host country is vulnerable at overseas military bases. Fifth, the main responsibility of overseas military bases is to undertake military tasks for national/international security, rather than civil tasks.^[1]

Legitimacy serves the purpose of defining the goals and interests of actors, and the structural components of legitimacy can alter the incentive structures faced by countries, thereby influencing their decision-making processes. The legitimacy of an international institution alters the strategic environment of countries, thereby influencing their behavior, even beyond those countries that have internalized and consider the institution legitimate. This implies the potential for two types of actors to resist internalization: those who strongly resist and those who are "forced to believe". Firstly, both powerful and weak countries are influenced by an effective social order. Although the functional impacts felt by these two types of countries differ, powerful countries are relatively more able to bear the higher costs of breaking rules. However, for both, considerations of gains and losses have shifted. Powerful countries may find themselves constrained by a legitimized social system, unable to act in the manner they prefer, even if they themselves participate in creating that system. A legitimate social structure restricts the scope of free action for both powerful and weak countries alike. ^[2]Closely related to the concept of legitimacy is "legality", which advocates judging the conformity of state behavior with the intrinsic values of the international order based on the standards of international law. As Chinese scholar Wang Tieya has stated, international relations constitute a legalized international society. ^[3]At this level, if state behavior complies with the relevant provisions of international law, it can effectively reduce resistance to the implementation of military policies.

From the perspectives of international law and international politics, the study of the legitimacy of overseas military bases in international law focuses on whether the establishment of overseas military bases has an international legal basis as stipulated in Article 38 of the *Statute of the International Court of Justice*, and whether the acquisition of overseas military bases by the leasing country complies with international treaty law, international customary law, and the basic principles of international law, i.e., "legality". ^[4]In contrast, the study of the legitimacy of overseas military bases in international politics emphasizes "legitimacy" as a value with a normative core. ^[5]Based on international practice, this paper argues that the "legitimacy" of overseas military bases encompasses two meanings. If the leasing country utilizes overseas military bases to undertake important tasks related to international humanitarianism, national responsibility, and peaceful utilization, it possesses the legitimacy to establish overseas military bases. Conversely, if the leasing country exploits overseas military bases to interfere in the internal affairs of other countries or establish global/regional military hegemony, it lacks legitimacy.

A comprehensive review of domestic and international research reveals that studies on the legitimacy of overseas military bases are primarily categorized into two types. The first approach focuses on the legitimacy of establishing overseas military bases, examining the issue from the perspectives of national power projection and the recognition of the host countries. From the perspective of host country recognition, Chalmers Johnson (2004) argues that the legitimacy of the U.S. overseas military bases primarily stems from its military hegemony. When the United States utilizes overseas military bases to control vital sea lanes around the world, the international community and even the host countries of these bases are compelled to "acknowledge" the legitimacy of these bases due to the military influence of the United States. ^[6]On the other hand, Roland (1983), based on empirical research on the U.S. military bases in the Philippines, posits that the significant dollar aid and job opportunities provided by these bases to the Philippines have fostered a strong national relationship between the two countries, thereby solidifying the legitimate status of the U.S. military presence in the Philippines. ^[7]Mark Gillon (2007), in his study of the U.S.

military bases in Japan and South Korea, notes that when foreign troops stationed in these countries violate local laws, the legitimacy of overseas military bases can be undermined by local resistance. ^[8]Andrew Yeo (2001) believes that overseas military bases established in violation of the principle of sovereign equality and at the expense of the interests of host country citizens tend to receive negative evaluations regarding their legitimacy. ^[9]Sun Degang (2012) argues that overseas military bases serve multiple functions, including military operations, diplomatic declarations, political transformation, relationship building, and military training. By flexibly utilizing these functions while containing potential adversaries, generating substantial revenue, and fostering mutually beneficial relationships, the legitimacy of overseas military bases can be maximized and sustained. ^[10]

The second category approaches the legitimacy of overseas military bases from the perspective of their compliance with international norms, examining the issue from an international law standpoint. Alexander Cooley (2008) contends that the legitimacy of overseas military bases hinges on the transfer of sovereign rights from the host country to the leasing country. Between nations and between nations and international organizations, international military agreements can be employed to realize the transfer of usage rights for overseas military bases, thereby granting the leasing country the right to use such bases in the host country. The signing of international military agreements or garrison agreements represents a crucial means of acquiring international legitimacy for overseas military bases. ^[11]Walter (1963), focusing on the U.S. military bases in Hawaii, points out that treaties related to overseas military bases that erode the sovereignty of the host country will elicit negative evaluations of their legitimacy under modern international law. ^[11]Li Bojun (2016) argues that the leasing country acquires the legitimacy to establish overseas military bases based on international easement. ^[12]Zou Ligang (2022) believes that the legitimacy of overseas military bases is closely tied to the manner in which they are acquired. When the leasing country obtains overseas military bases through the transfer of sovereign rights (such as through alliances), these bases possess legitimacy under international law. However, if the leasing country acquires overseas military bases based on international easement and anticipatory self-defense rights (through military occupation), these bases may violate international law, leading to negative evaluations of their legitimacy under international law. ^[13]Kuang Zengjun (2020), citing the example of the U.S. military bases in Iraq, notes that the lack of authorization from the United Nations Security Council and the illegality of the U.S. invasion of Iraq have resulted in the absence of legitimacy for these bases under international law. ^[14]

In summary, research on the legitimacy of overseas military bases primarily focuses on the “legitimacy” within international relations and the “legality” under international law, yet both tend to avoid addressing the concept of legitimacy for overseas military bases and even the constituent elements that influence such legitimacy. This paper, adopting empirical analysis and historical research methods, takes the U.S. overseas military bases as the research object and examines the “legitimacy” and “legality” of overseas military bases from the perspective of constructivism. By doing so, it aims to summarize the key factors that determine the legitimacy of overseas military bases, thereby providing a reference for subsequent research on the institutional framework of overseas military bases.

2. Factors of Legitimacy for Overseas Military Bases

From the perspective of constructivism, legitimacy refers to a legal outcome that emerges on the foundation of normative principles. Legitimacy, in this context, signifies being embedded within the legal framework, and to some extent, it implies legality. The key distinction between legitimacy and legality lies in the fact that legitimacy incorporates moral judgments, serving as a value-oriented

guide for legality. Legality, as a political value, possesses a normative core, while ^[15]legitimacy represents the assessment made by individuals based on specific value criteria towards social orders, systems, behaviors, and ideologies. Those orders, systems, behaviors, and ideologies that align with universally accepted values are considered legitimate; conversely, those that do not are deemed illegitimate. In particular, legitimacy, as it relates to international relations, focuses on compliance with international law, or the “legality” at the international legal level. ^[16]It emphasizes countries’ compliance with international treaties and principles of international law. This paper, therefore, adopts a constructivist approach to investigate the legitimacy of overseas military bases, integrating both the “legitimacy” within international politics and the “legality” under international law.

The establishment of overseas military bases is closely tied to a nation’s security concept. Constructivism posits that if security implies the existence, function, or consequence of “threats”, then these “threats” do not primarily constitute objective harm to a nation’s physical existence but rather stem from the nation’s subjective criteria for defining “what constitutes a threat”. Regarding the essence of international security, Alexander Wendt, a leading figure in constructivist theory, points out that nations react differently to enemies and friends because enemies pose threats, whereas friends do not. Neither the anarchic state nor the distribution of power alone suffices to determine which nations are threatening and which are not. While the distribution of power may always influence a nation’s strategic considerations, how it exerts influence depends on intersubjective understandings and expectations, as well as the “distribution of knowledge^[17]” by which nations define themselves and others. In summary, the constructivist view of international security emphasizes the maintenance of an international order based on consensus and shared values among the international community. Here, ideas and identity occupy a central position in the constructivist security concept, both of which are constructed through “practice” and interactive processes. Moreover, legitimacy, as the ultimate pursuit of the constructivist security concept, plays a decisive role in shaping the international security order. Legitimacy refers to an actor’s belief in adhering to a rule or institution; this belief is necessarily normative and subjective and does not necessarily have to be shared by other actors. It influences behavior because its existence significantly impacts the formation of international institutions and the formulation of national strategies. ^[18]

Based on constructivism and in conjunction with Professor Zhu Tongyin’s theory of “the legitimacy of international wars”^[19], this article posits that the legitimacy of overseas military bases hinges on the following factors:

First, the legitimacy of international wars. Considering the existing overseas military bases worldwide, the vast majority of them were established after wars. Consequently, as logistical support centers and post-war ruling headquarters for international wars, the legitimacy of overseas military bases is intimately tied to the legitimacy of international wars. Therefore, the legitimacy of international war serves as a crucial indicator in assessing the legitimacy of overseas military bases.

Second, the degree of compliance with international norms. International norms refer to binding obligations stipulated in international treaties and commitments made through non-binding political agreements. ^[20]As shared knowledge, international norms are formed through the interactions of actors, during which actors reach a consensus on the nature of the problems to be solved and the appropriate means to achieve their goals, thereby forming shared knowledge that enables the convergence of expectations among actors and the establishment of institutions. ^[21]As the cornerstone of stable international order, international norms encompass norms of international relations, including international law, at the “legality level”. When a leasing country establishes overseas military bases that are in line with international norms such as international law, it can conceptually reach a consensus with its allies while avoiding international criticism. Therefore, the degree of compliance with international norms is one of the important indicators for measuring the

legitimacy of overseas military bases.

Third, the recognition of the host country for overseas military bases. The recognition by the host country falls within the category of identity recognition. When the establishment of overseas military bases can provide the host country with international public security products (military asylum) and promote the economic development of the host country, the host country's recognition of overseas military bases increases, thereby reducing the costs for the leasing country to manage the overseas military bases.

The following is a detailed argumentation of the above three elements.

2.1 The element of the legitimacy of international wars

War is generally defined as “a behavior and phenomenon of organized use of force between independent political entities (states) or political groups.”^[22] Since ancient times, before launching a war, countries would typically issue national statements or declarations to promote the legitimacy of the war. With the introduction of the concept of soft power, the legitimacy of international war has also become an important factor in measuring the legitimacy of a country's military actions. Joseph Nye, an American scholar, pointed out that legitimacy is the lifeblood of political power. In the context of war, soft power involves using a country's cultural/ideological appeal to induce other countries to voluntarily emulate or accept the rules of the system, thereby indirectly influencing others to determine their own preferences.^[23] In other words, the legitimacy of international war means that the international community recognizes the national behavior of the war-initiating country, thereby exempting it from international moral condemnation. According to existing research, the degree of international legitimacy can be divided into four levels: The first level is sufficient legitimacy, where wars are launched to safeguard the common interests of all mankind or even world peace. Such wars are widely recognized by human society and include just wars (defensive wars), epochal wars (anti-colonial wars), and wars launched by countries fulfilling their obligations under international law to maintain international peace. For example, the Afghan resistance against American aggression in the early 20th century, where Afghan civilians and military personnel united to fight against the invading American troops through guerrilla warfare. The second level is insufficient legitimacy: Such wars have an ideological value and a foundation in international regulations but encompass three scenarios: lack of international community recognition, some military actions that violate international regulations, and lack of international community recognition coupled with weak international legal basis. These three scenarios show a decreasing trend in legitimacy. Since the end of the Cold War, a series of wars launched by the United States and its NATO allies belong to this level. The third level is the absence of legitimacy, which, compared to the second level, lacks an ideological value foundation but possesses a certain degree of recognition from allies and serves to maintain the interests within the military bloc. The fourth level is the loss of legitimacy, where international wars lack ideological value foundations, international regulatory foundations, and recognition from the international community, such as Japan's invasion of Korea during World War II.^[24] Based on international practice, the vast majority of overseas military bases in the world today were established after World War II, building upon the military bases established after that conflict. Therefore, the legitimacy of overseas military bases is closely related to the legitimacy of international wars. That is, when the military actions of a war-initiating country possess international war legitimacy, the overseas military bases it establishes also acquire corresponding legitimacy. Conversely, when the military actions of a war-initiating country lack international war legitimacy, the legitimacy of the overseas military bases it establishes will also be questioned by the international community.

2.2 The degree of compliance with international norms

The Charter of the United Nations serves as the cornerstone of the existing international order. All international regulations must strictly adhere to the Charter of the United Nations and its related norms of international law, namely the “legality” of international treaties. Additionally, international law is a crucial indicator for assessing the legitimacy of overseas military bases. According to existing research, the international legal basis for establishing overseas military bases includes the transfer of sovereign rights, international easement, and anticipatory self-defense rights. The theory of transfer of sovereign rights posits that the leasing country of an overseas military base obtains the rights to establish and administer the base through the transfer of sovereign rights from the host country, typically achieved through the signing of military stationing agreements or overseas military base agreements. The theory of international easement argues that the legitimacy of establishing overseas military bases is derived from the “easement” clauses in military treaties between the leasing country and the host country. The theory of anticipatory self-defense rights, on the other hand, maintains that overseas military bases are established under the collective defense clauses within the framework of the Charter of the United Nations.^[25] In terms of international easement, firstly, with the development of modern international law, this right, as a product of the colonial era, has faced increasing scrutiny since the Second World War, as more and more countries have awakened to their sovereignty and newly independent nations adhering to tabula rasa principles have refused to recognize the legitimacy of overseas military bases established based on international easement. Secondly, the International Court of Justice’s “Territorial Passage in India” case also denied the validity of international easement for military purposes from the perspective of international judicial precedents.^[26] Overseas military bases established on the basis of collective self-defense rights have also been widely criticized by the international community since the outbreak of the Iraq War. The theory of transfer of sovereign rights, on the other hand, has adapted to the development of globalization and aligns with the principle of national equality enshrined in the Charter of the United Nations, thus gaining widespread international recognition. The establishment of international organizations such as the European Union also provides successful international practice for this theory. Therefore, among the three existing theories, the theory of transfer of sovereign rights, being fully compliant with modern international law, presents a state of congruence at the “legality” level, while the theories of international easement and anticipatory self-defense rights are in a predicament of “lack of legality” due to their violation of modern international law.^[27]

In summary, the compliance with international norms primarily refers to the “legality” at the international law level. When a leasing country of overseas military bases obtains them through military occupation, its advocacy of the theory of international easement exhibits a state of lack of legitimacy due to the violation of substantive international law. When a leasing country advocates for establishing overseas military bases based on collective self-defense rights, it presents a state of legitimacy flaws due to the violation of fundamental principles of international law. However, when the leasing country acquires overseas military bases through alliances based on the transfer of sovereign rights from the host country, it follows the relevant provisions of the Charter of the United Nations, thereby presenting a state of sufficient legitimacy.

2.3 The recognition of the host country for overseas military bases

Most overseas military bases are located in strategic corridors or vital locations, typically characterized by convenient transportation and frequent external exchanges. In such circumstances, the leasing country’s acquisition, construction, maintenance, and operation of overseas military bases from the host country will inevitably impact local residents. If the leasing country can fully

consider the local residents' customs, historical traditions, and even their sense of security in terms of public order, it will gain the recognition of the host country's residents. Otherwise, any minor disturbances or even occasional infringements by overseas military base personnel on local residents will provoke strong protests from the local residents, leading to the leasing country being forced to withdraw or relocate the overseas military bases. The degree of recognition by the host country of overseas military bases is also an important indicator for measuring their legitimacy. Based on literature analysis, the main criteria for measuring the degree of recognition by the host country of overseas military bases are as follows: Firstly, whether the establishment of overseas military bases promotes the economic development of the host country. When the establishment of overseas military bases provides a significant number of jobs for the host country or drives its economic development, it presents a positive evaluation state, and vice versa. Secondly, whether the establishment of overseas military bases reduces the crime rate in the host country. When the establishment of overseas military bases effectively controls the growth of the crime rate in the host country, it generates positive feedback, and vice versa. Additionally, when the establishment of overseas military bases provides international security public goods for the host country, it presents a positive evaluation state; however, if it increases the risk of armed conflicts faced by the host country, it presents a negative evaluation state.^[28]

In conclusion, based on international practices, this article argues that the legitimacy of overseas military bases depends on three factors: the legitimacy of international wars, the degree of compliance with international norms, and the recognition of the host country of overseas military bases. In other words, it is necessary to simultaneously meet the "legitimacy" and "legality" from the constructivist perspective. "Legitimacy" primarily depends on the recognition of the host country and positive evaluations from the international community; while "legality" focuses on whether the military agreements signed between the leasing country of overseas military bases and the host country comply with the relevant provisions of international law. When overseas military bases simultaneously satisfy both "legitimacy" and "legality", their legitimacy is deemed sufficient. If they only meet one of these two criteria, the legitimacy of overseas military bases presents a partially flawed state. When overseas military bases fail to meet both "legitimacy" and "legality", their legitimacy is deemed absent.

3. Empirical Analysis of the Legitimacy of the U.S. Overseas Military Bases

This article selects the U.S. military bases in Japan, Iraq, and Djibouti as empirical cases, and conducts a legitimacy assessment based on three elements: the legitimacy of international wars, the degree of compliance with international norms, and the recognition of the host country of overseas military bases.

3.1 Lack of legitimacy--empirical research based on the U.S. military bases in Iraq

After the "9.11" incident, the Bush Administration of the United States listed Iraq and several other countries as "Axis of Evil" on the grounds of terrorism and launched the Iraq War in 2003. From the perspective of pre-war propaganda, the United States had a certain "legitimacy" basis for launching the Iraq War, claiming that Iraq had privately produced weapons of mass destruction and supported terrorist organizations, and that Iraq's actions posed a significant threat to international security. In September 2002, the Bush Administration submitted a proposal to the United Nations for sanctions against Iraq, which was approved by the UN in November of the same year (UNGA Resolution 1441). In February 2003, UN Secretary-General Kofi Annan stated that Iraq's actions were not directed against a particular country but against the entire international community. If a country were prepared to launch armed intervention to address Iraq's behavior that threatened the

entire international community, the UN Security Council would grant it legitimacy. The statement by UN Secretary-General Kofi Annan and the adoption of UNGA Resolution 1441 to a certain extent granted the United States the “international war legitimacy” to launch the Iraq War. In terms of compliance with international norms, although the United States did not receive formal authorization from the UN Security Council, it formally complied with international norms due to the public support of UN Secretary-General Kofi Annan. Therefore, at the beginning of the Iraq War, the United States received support from many countries. However, as the war progressed, the international community found that the legitimacy of the United States’ launch of the Iraq War continued to erode. Firstly, in terms of the legitimacy of international wars, the rationale behind the United States’ launch of the Iraq War was Iraq’s possession of weapons of mass destruction. As expert teams failed to find any evidence, this diplomatic propaganda was gradually questioned, leading to a continuous “decline” in the legitimacy of the international war. ^[29]

In terms of compliance with international norms, the United States did not receive authorization from the UN Security Council to launch the Iraq War, but merely resorted to unilateralism. The concept of “preemptive self-defense” advocated by the United States, which involves taking action before an attack occurs, is also difficult to justify. The theoretical basis for the “preemptive self-defense” advocated by the United States in launching the Iraq War is deterrence theory, which states that a war can be considered preventive if it has at least one of two potential objectives. The first potential objective is to disarm the “enemy state” to such an extent that it is at a significant military disadvantage. The second potential objective is to change the regime of the “enemy state” through war, so that even if the “enemy state” is allowed to rearm, it can no longer pose a threat to the country. Preventive war theory intends to address problems before they escalate into crises; preemptive strikes, on the other hand, are a more desperate strategy employed at the height of a crisis. ^[30]After launching the Iraq War, the United States has consistently attempted to justify its preventive war strategy as an extension of the right of self-defense under the UN Charter. However, in reality, there are fundamental differences between the system of anticipatory self-defense stipulated in the UN Charter and the strategy of preventive war. The right of self-defense refers to the lawful use of force in response to a prior illegal use of force or at least a threat of force, in accordance with the conditions prescribed by international law. ^[31]The system of the right of self-defense under the UN Charter primarily comprises the following four elements: firstly, the right of self-defense is an inherent right of the state itself; secondly, the right of self-defense arises from an external armed attack, and the use of force that does not constitute an armed attack or an internal attack without “foreign involvement” does not trigger the right of self-defense under international law; thirdly, the right of self-defense refers to the right to take military countermeasures, and thus the exercise of this right involves certain military actions taken by the claiming state; fourthly, the right of self-defense is a right to resolve disputes by force, and thus, compared to peaceful means of dispute settlement, the exercise of the right of self-defense essentially involves the use of force to forcibly resolve disputes. ^[32]It is thus evident that the United States’ claim cannot be supported by modern international law, which is based on the UN Charter. Therefore, in the later stages of the Iraq War, the United States’ compliance with international norms continued to decline, resulting in the loss of “support from international law” for the US military bases in Iraq.

In terms of recognition from host countries of overseas military bases, after overthrowing the Saddam Hussein government, the United States signed a series of overseas military base agreements with the Iraqi government, including the Status of Forces Agreement (SOFA) with the United States. The SOFA and other agreements granted significant criminal immunity to the U.S. forces in Iraq, leading to a substantial accumulation of tensions between the U.S. troops and Iraqi civilians. ^[33]Furthermore, the US military bases in Iraq have had a significant negative impact on the Iraqi economy. According to existing research, overseas military bases acquired through military

occupation can have a substantial negative effect on the host country's economy, while those acquired through alliances tend to promote economic development in the host country. ^[34]Consequently, the US military bases in Iraq, which were established through military occupation, are no exception. The latest financial data reveals that the Iraqi economy suffered a severe decline after the Iraq War, with the majority of Iraqis living in poverty. ^[35]

Compared to the British military bases established in Iraq in 1930 based on the Anglo-Iraqi Treaty of Alliance, the legitimacy of the U.S. presence in Iraq exhibits severe shortcomings. On June 30, 1930, the United Kingdom and Iraq signed the Anglo-Iraqi Treaty of Alliance, which explicitly stipulated that both governments were obligated to provide military assistance to each other in the event of war. Specifically, the treaty clearly outlines:

“The King of Iraq undertakes to grant to His Majesty the King of the United Kingdom the right to establish air bases at any place west of the River Euphrates during the term of this Treaty”; “His Majesty the King of the United Kingdom undertakes to give all military assistance to the King of Iraq, at the latter's request, in the following matters, the cost of which shall be borne by the King of Iraq: 1) The training of Iraqi officers in the naval, military, and air services by the United Kingdom; 2) The supply of the latest weapons, equipment, and military logistics to the King of Iraq; 3) The provision of military advisory services to the Iraqi armed forces.” ^[36]

It can be seen from the treaty that while Iraq and the United Kingdom did not form a military alliance, the United Kingdom gained a high level of recognition from Iraqi elites and thus obtained corresponding legitimacy due to its provision of high-quality international security public goods to Iraq.

Thus, it can be concluded that the U.S. military bases in Iraq are severely lacking in legitimacy due to the simultaneous absence of international war legitimacy, compliance with international norms, and recognition from the host country of overseas military bases.

3.2 Legitimacy flaws--an empirical study based on the U.S. military bases in Japan

The establishment of the U.S. military bases in Japan dates back to the early post-World War II era. The United States acquired these bases through military occupation and subsequently signed relevant treaties, forcibly incorporating Japan into its military alliance. Following this, the United States retained its overseas military bases in Japan through a series of treaties, including the Treaty of Mutual Cooperation and Security between the United States and Japan.

In terms of the legitimacy of international wars, the U.S. war against Japan during World War II was primarily based on two aspects. First, it was a just war in response to the anti-fascist alliance. Second, after Japan's surprise attack on Pearl Harbor, the United States took self-defense countermeasures against Japan based on the fundamental principles of international law. Therefore, in terms of international war legitimacy, the U.S. military occupation of Japan during World War II possessed sufficient international legitimacy.

In terms of the degree of compliance with international norms, after World War II, the United States imposed military control over major regions of Japan, which led to the formation of the rudimentary structure of the U.S. military bases in Japan. Concurrently with the signing of the San Francisco Peace Treaty in 1951, the United States and Japan also concluded the U.S.-Japan Mutual Defense and Assistance Agreement, followed by military alliance treaties such as the Treaty of Mutual Cooperation and Security between the United States and Japan and the Status of Forces Agreement (SOFA) regarding the U.S. Armed Forces in Japan, which “transformed” the means of acquiring the U.S. military bases in Japan into an alliance approach, thereby filling the “legal vacuum” that existed immediately after World War II. However, contrary to expectations, despite the United States' efforts to address the legitimacy flaws of the U.S. military bases in Japan,

significant issues persist in terms of international norm compatibility and host country recognition. Regarding international norm compatibility, while Japan and the United States signed a series of overseas military base agreements such as the Treaty of Mutual Cooperation and Security after World War II, attempting to obscure the inherent flaws in the legitimacy of the U.S. military bases in Japan with leasehold clauses (international easement). However, according to international practices and relevant provisions of the Vienna Convention, while the victorious nations in World War II have the right to occupy defeated nations in the short term after the war, they are subject to certain time limits for such occupation. The subsequent overseas military base agreements regarding the U.S. military bases in Japan cannot fill this inherent deficiency.

In terms of host country recognition: During the Cold War, Japan, under the U.S. occupation, was situated at the forefront of the US-Soviet confrontation. Coupled with territorial disputes such as the “Four Northern Islands” between Japan and the Soviet Union, Japan’s forcibly “militarily bound” relationship with the Soviet Union became strained. The continued existence of the U.S. military bases in Japan effectively deterred the Soviet Union, helping to prevent large-scale armed conflicts between Japan and the Soviet Union to a certain extent. On the other hand, from the 1952 Administrative Agreement between the United States and Japan to the 1960 Status of Forces Agreement (SOFA) regarding the U.S. Armed Forces in Japan, the United States gradually reduced the criminal immunity of the U.S. troops stationed in Japan through international treaties, thereby mitigating Japanese public resentment stemming from criminal offenses committed by the U.S. military personnel.^[37] However, issues such as environmental pollution caused by the U.S. military bases in Japan and criminal offenses committed by the U.S. troops stationed in Japan with a sense of impunity due to their criminal immunity have emerged endlessly. For instance, after the U.S. occupation of Okinawa, nearly half of the local residents were forced to relocate, and incidents such as the U.S. aircraft crashes and aerial accidents posed threats to the lives and property of people living near the Okinawa bases.^[38] The frequent occurrence of such incidents has generated strong negative emotions among the Japanese public regarding the continued presence of the U.S. military bases in Japan. Taking the U.S. military bases in Okinawa as an example, in 1995, a U.S. military personnel’s rape of a Japanese woman sparked large-scale protests among the Okinawan people, which further spread throughout Japan. Under public pressure, the United States and the Japanese government passed the final report on the issue of the U.S. military bases in Okinawa and the additional document on the Futenma base issue at the Japan-U.S. Security Consultative Committee meeting held in December 1996. However, this still triggered opposition from the vast majority of Okinawans, resulting in the delay of the airport’s construction.^[39]

Secondly, the increasingly heavy burden of expenses related to the U.S. military bases in Japan has caused immense suffering among the Japanese public. According to the provisions of the Treaty of Mutual Cooperation and Security between the United States and Japan, Japan and the United States share the military expenses of the U.S. military bases in Japan at a ratio of 1:3. During President Nixon’s administration, it was proposed that the provision of international security public goods by the United States to its allies should be actively borne by the allies themselves, in order to reduce the economic pressure faced by the United States in maintaining its global hegemony. The introduction of “Nixon Doctrine” led to a comprehensive reduction in the U.S. foreign military spending in the late Cold War era, further increasing Japan’s financial burden related to the U.S. military bases in Japan.^[40] This policy has had far-reaching implications. According to statistics from Japan’s Ministry of Defense since 2000, the military expenses for the U.S. military bases in Japan have decreased from 770.1 billion yen in 2000 to 576 billion yen in 2016. From 2016 to 2020, the total expenditure on base military expenses was 2,893.5 billion yen, with Japan contributing 1,893 billion yen and the United States contributing 946.5 billion yen. Japan’s annual expenditure on the U.S. military bases in Japan accounts for one-quarter of its national defense spending.

^[41]Additionally, the United States regularly requests Japan to purchase military products from American arms dealers, leading to significant disagreements among political parties in Japan regarding the military expenses related to the U.S. military bases in Japan.

It is evident that there are significant flaws in the legitimacy of the U.S. military bases in Japan. While there are sufficient justifications for the international legitimacy of these bases in the context of war, the “post-facto authorization” approach fails to adequately address the shortcomings in adherence to international norms. While the U.S. military bases in Japan provide a significant amount of international security public goods to Japan, the substantial disruptions they cause to the lives of Japanese citizens lead to a lack of recognition from the host country. Therefore, the U.S. military bases in Japan belong to a category of overseas bases with insufficient legitimacy.

3.3 Sufficient legitimacy: an empirical study of the U.S. military base in Djibouti

According to the Djibouti country report provided by the United Nations, Djibouti is one of the least developed countries in the world. Located on the coast of the Gulf of Aden in northeastern Africa, Djibouti controls the Bab El-Mandeb Strait, a strategic chokepoint for ships traveling from the Red Sea to the Indian Ocean. It borders Somalia to the southeast and has a tropical desert climate characterized by heat and little rainfall. The interior of the country is dominated by plateaus and mountains, with barren land that lacks the soil necessary for agricultural development. Before the invasion of colonizers, Djibouti was ruled by three indigenous kings from the Hausa, Tadjoura, and Obock regions. In 1850, France invaded Djibouti and established the colonial government of “French Somaliland” in 1896. Djibouti became a French overseas territory in 1946. After continuous struggles by the local people, Djibouti officially gained independence in 1977. ^[42]However, Djibouti faced three major challenges after independence: Firstly, due to barren land and harsh climate, Djibouti struggled to achieve food self-sufficiency. Secondly, during French colonial rule, the local handicraft economy was destroyed by colonial economic policies, resulting in a weak industrial and agricultural base. Ninety-five percent of industrial products needed to be imported, and over ninety percent of construction funds relied on foreign aid, with the service industry dominating the economy. According to the African Development Bank’s 1999 Development Report, Djibouti’s GDP was 519 million in 1998, and it remained below 3.37 billion until 2020. Thirdly, with the rise of Somali piracy, Djibouti, bordering Somalia, lacked the means to address pirate attacks. Djibouti is a vital route for transporting oil resources from the Middle East and Africa to Eurasia. Due to Djibouti’s relatively underdeveloped economy and frequent armed conflicts in neighboring countries, the country’s survival environment was greatly threatened. Subsequently, Djibouti embarked on reforms, making the leasing of its ports a key strategy for national economic development. This measure gradually transformed Djibouti into a cosmopolitan naval base hosting “overseas military bases” from various countries.

The establishment of military bases by other countries has comprehensively improved Djibouti’s economic and security situation. The rental income from military ports has alleviated Djibouti’s financial constraints. Meanwhile, the establishment of foreign overseas military bases has effectively deterred Djibouti’s hostile armed forces, thereby resolving, to a certain extent, Djibouti’s security crisis. ^[43]

In terms of the legitimacy of international wars, the overseas military bases established in Djibouti in recent years have primarily been used for international security maintenance and humanitarian aid operations such as combating piracy, maritime terrorism, and evacuating citizens after natural disasters. Such actions are not only recognized by the international community, but they have also maintained the existing international order by providing international security public goods, particularly in the fight against Somali piracy and related overseas escort operations, thereby

obtaining corresponding “legitimacy of international wars”.

In terms of compliance with international norms, the establishment of the U.S. military base in Djibouti does not violate the relevant provisions of modern international law, as it was achieved through the signing of an overseas military base agreement with Djibouti and the transfer of sovereign rights. Secondly, the enforcement actions against maritime terrorism and piracy in the sea are supported by international treaties such as the United Nations Convention on the Law of the Sea. Therefore, the U.S. military base in Djibouti exhibits a high degree of compliance with international norms. ^[44]

In terms of the recognition host countries, the United States maintains good diplomatic relations with Djibouti. The U.S. Department of Defense and the Djiboutian military have established a regular pattern of assistance, including the dispatch of military advisors, instructors, and other training services, as well as the gratuitous donation of “obsolete” US weapons to Djibouti. The infrastructure and supporting facilities of the U.S. military base have also provided a significant number of job opportunities for the people of Djibouti, effectively reducing the country’s unemployment rate. Finally, the United States did not impose colonial rule on Djibouti in modern times, and there is no resentment among Djiboutian citizens towards the presence of American troops.

It can be seen that the U.S. military base in Djibouti is one of the few overseas military bases with sufficient legitimacy for the United States.

Based on the empirical analysis above, this article categorizes the U.S. overseas military bases into three types, each corresponding to different levels of legitimacy. That is, overseas military bases acquired through military occupation mostly exhibit a state of lacking legitimacy. Overseas military bases obtained through military occupation violate international law and morality, leading to widespread criticism of the United States by the international community. The rise of nationalist guerrilla forces in occupied countries can incite local populations against the United States. Overseas military bases acquired through alliances form an interactive relationship between the United States and the host country based on the exchange of “favorable trade policies for the United States in return for priority in providing international security public goods”. Such overseas military bases, mostly from the Cold War era, were forcibly pulled into the “chariot” of confrontation with socialist countries like the Soviet Union by the United States. Coupled with the absolute military superiority of the United States over its allies, the allies had to accept the “criminal immunity clause” advocated by the United States, which also led to the inability to effectively regulate the violations of host country citizens by the U.S. forces abroad. Therefore, such overseas military bases exhibit a state of insufficient legitimacy. The third category is overseas military bases obtained through economic aid. The most significant feature of these bases is that the lease contracts are based on economic cooperation as a legitimacy foundation. Additionally, the presence of the U.S. forces abroad provides a large number of jobs and tax revenues for the host country, thereby gaining recognition from the host country’s population and exhibiting a state of sufficient legitimacy.

4. Conclusion

The legitimacy of overseas military bases is reflected in three dimensions: international rules, international norms, and international concepts. The compliance with international rules is closely related to the purpose of establishing overseas military bases; that is, those aimed at seizing military hegemony violate the global trend towards peace and lack legitimacy, thus showing a clear mismatch with international rules. Overseas military bases obtained through alliances and economic aid, which aim to provide international security public goods, have obvious legitimacy and show a

high degree of compliance with international rules. International norms are mainly based on international law, with the United Nations Charter providing a legal basis for global governance. When the establishment of overseas military bases complies with international law, it shows a high degree of compliance with international norms. Conversely, when the establishment of overseas military bases clearly violates international law, it shows a clear mismatch with international norms due to the violation. International concepts are related to the degree of recognition by the host country; when the establishment of overseas military bases is beneficial to improving the living standards of the host country's people and enhancing the host country's security level, it can gain higher recognition from the host country. However, when the establishment of overseas military bases increases the financial burden on the host country, and the actions of foreign military personnel increase the crime rate in the host country, it is difficult to gain recognition from the host country.

Based on this, this paper argues that from the perspective of constructivism, the legitimacy of overseas military bases is comprised of both "legitimacy" and "legality". The legitimacy of international wars and the recognition of the host country serve as evaluation indicators for the "legitimacy" of establishing overseas military bases, while the degree of compliance with international norms constitutes an important criterion for "legality", requiring that the acquiring country must have an international legal basis as stipulated in Article 38 of the Statute of the International Court of Justice for obtaining overseas military bases. This paper maintains that the legitimacy of overseas military bases hinges on three factors: the legitimacy of international warfare, the degree of compliance with international norms, and the recognition of the host country of the overseas military bases.

Scholar Charles P. Kindleberger proposed that a nation's power is directly proportional to its investment in international public goods. When a country increases its investment in providing international public goods, its power in the international community correspondingly grows; conversely, when it reduces its investment, its power diminishes accordingly.^[45] In light of the research presented in this paper, overseas military bases, as projections of national power, are intimately linked to the legitimacy of their provision of international security public goods. When overseas military bases are established to provide material public goods (such as economic assistance and job opportunities), ideological public goods (the dissemination of international security concepts that align with international law), and institutional public goods (maintenance of political stability in host countries), their legitimacy among host nations will significantly increase. Many modern Western overseas military bases are remnants of the pre-World War II era, established with a profit-driven capitalist logic, an impulse to dominate and assert hegemony, and a strong Western value system.^[46] Influenced by realist thinking, the West has positioned overseas military bases as tools for competing for military hegemony, thereby neglecting the issue of their legitimacy, which has contributed to ongoing global instability.

Based on an empirical analysis of the U.S. overseas military presence, this article proposes the following recommendations to avoid a legitimacy crisis in overseas military bases.

First, the leasing country should abandon the "zero-sum game" mindset when establishing overseas military bases. Traditionally, the functions of overseas military bases were limited to military deterrence and wartime supply. However, with the development of globalization and the frequent occurrence of non-traditional security threats, this article argues that the functions of overseas military bases should gradually shift from purely military functions to multifunctional and comprehensive bases that encompass evacuating citizens, environmental monitoring and protection, combating maritime terrorism, and providing international public security products to coastal countries, in order to gain the recognition of the host country.

Second, overseas military bases can actively respond to peacekeeping operations of the United

Nations Security Council, leveraging the “legitimacy endorsement” of the United Nations Security Council to gain legitimacy recognition at the international normative level.

Third, the acquisition of overseas military bases by leasing countries should be limited to alliances and assistance methods, in order to avoid falling into a “legitimacy” crisis by violating international law through military occupation of overseas military bases.

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