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以青年之视角，  
观世界之前沿



## 卷首语

自 1995 年外交学院第一次将模拟联合国活动引入中国以来，模联活动已在中国开展 25 年，越来越多的青年人积极投身这项活动，而在此中得到成长的模联人也致力于将模拟联合国活动越办越严谨、越办越专业。

为了创建一个更加直观的模拟联合国学术研究成果分享平台，外交学院模拟联合国协会于 2013 年 11 月开始创办《前沿》刊物，定期精选校内外众多优秀思想者的作品，它是协会进行学术交流和研究创新，并定期向全国乃至全世界的青年展示协会的研究成果与创新尝试的重要载体。

本期《前沿》作为 2020 北京国际模拟联合国大会特刊，包含了多篇外交学院校内主席供稿，相信能够加深与会代表对议题的见解；我们也精心挑选并收录了外校成员的优秀稿件，每一篇来稿都让我们备受鼓舞，《前沿》感谢所有人的参与和付出。

遗憾的是，受到新冠疫情影响，也充分考虑与会代表的身体健康，今年原定 5 月的 2020 北京国际模拟联合国大会未能筹办到底，无法把纸质版杂志作为纪念赠与各位代表，故我们将把本期杂志的电子版上传到北京国际模拟联合国大会官网，方便大家查阅，同时“外院模联”公众号将定期推送刊内文章。在此，我们向报名本次大会并为之辛勤付出的主席和代表们表达真挚的歉意，也欢迎你们明年再来外交学院参加 2021 北京国际模拟联合国大会，以青年之己见谱一曲华章，凭胸中之帷幄圆几代人梦想，我们终相会。

今年是《前沿》创刊第七年，国际社会风起云涌，世事如棋局局新；讨论议题层出不穷，千变万化不离其宗，编委会与协会不断更新换代，而无论何时何地的我们都持有同一种态度：

愿以青年之视角，观世界之前沿。

外交学院模拟联合国协会  
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# Resilience of Agriculture Production: the Challenges We Are Faced With

Sha Weiran

## 梗概

随着 2030 议程的启动，可持续发展问题受到了越来越多的关注。拥有强大恢复力的农业生产及其所带来的稳定粮食供应是联合国粮农组织实现“零饥饿”这一可持续发展目标的重中之重。然而，可持续的农业生产却面临着多方面的挑战，本文将逐一为读者呈现。

The Sustainable Development Goals launched by the United Nations require 'zero hunger' to be realized by the end of 2030. However, global hunger is on the rise after one decade of steady decline. In the process of ending hunger, agricultural production is undoubtedly the foundation. A resilient agricultural production guarantees a steady output and supply, which can eliminate hunger caused by food supply fluctuation. Resilience refers to the capability of recovering from adversities and instabilities. Even though the process of modernization has witnessed huge strides, agriculture remains one of the most vulnerable sectors. Climate changes, economic shocks and even food chain malfunctions all threaten to undermine agricultural production. Since the beginning of 2020, the desert locust situation has been deteriorating, which has seriously affected agricultural production in the Red Sea region. African Swine fever disrupted livestock production and leveraged the price of pork to a great extent. Among all the challenges faced by the agricultural department, natural hazards, protracted crises and food chain crises are the toughest ones.

## Natural hazards

Among the major production departments, agriculture is susceptible to the natural environment the most.

As for the grains, water proves to be the most precious resource. For many underdeveloped regions, rain remains the dominant source of irrigation. The droughts can be disastrous. The devastation brought by droughts is more complicated than expected. It not only slashes the crop yields, but also drains the underground water and, in turn, degrades the pastures. Then, a chain reaction ensues. Affected by the poor production, people in the rural regions are compelled to the urban areas to sustain their livelihoods. The pressure of food supply is raised by the escalating urban population, while agricultural production is reduced by the diminishing labor force. Eventually, the food production sector collapses, and a famine arrives. The country will be thrown in chaos by starvation and social tensions. Nine years in the Horn of Africa, more than 13 million people depended on humanitarian assistance to survive the droughts. (WHO 2011)

Sometimes the mother nature can go to the other extreme in terms of water. Floods can be as devastating as the droughts. Monsoon rains, melting snows and tidal waves are all potential triggers of floods. The nutrients stored in the soil are drained away or diluted. The overflowing water also suffocates the plants by cutting off their exposure to air. Diseases accompany the floods for most of the time since floods provide desirable conditions for the expansion of waterborne diseases which are communicable among human beings.

For centuries human beings had been trying to conquer the mother nature, but all the attempts ended up in vain. Industrialization and the scientific revolution blessed people with wealth and convenience. Climate changes are now asking human beings to pay the bill of centuries of pollution. Rising sea level caused by melting glaciers and

global warming derived from greenhouse gas emission add uncertainty to climate patterns. More natural hazards will occur in the future as climate changes gradually show themselves. Responses towards those inevitable threats determine the stability of agricultural production to a great extent.

## **Protracted crises**

Protracted crises generally mean prolonged or recurrent crises. (Committee on World Food Security 2015) They are characterized as enduring and controversial. Protracted crises may occur due to various reasons, such as natural disasters, conflicts, terrorism, or governance deficiency.

Protracted crises undermine agricultural production in one way or another. The first effect of protracted crises exerted on agricultural production is population displacement. Protracted crises throw people into miserable living conditions, which results in a large scale of people fleeing the countries. Such kind of outflow of the population is known as population displacement. The outflow reduces the labor force in agricultural production. Consequently, agricultural productivity tumbles.

The second effect is the damage to the farmers' livelihood. The loss of agricultural resources like land, tools, and livestock is considerable during the protracted crises. Those reduced to the homeless even lost everything. The agricultural production tumbles as farmers become unable to produce. Darfur witnessed a more than 30 percent of livestock reduction in its first three years of protracted crisis. Improving the adaptability to the protracted crises can increase the resilience of food production to a great extent.

Even compared to the developing countries, which are supposed to be relatively food insecure, countries in protracted crises show three times the higher ratio of undernutrition. (FAO 2019)

Crises happen inevitably, and temporary crises are converted to the protracted crises when they remain unsettled for a long time. The authorities, together with other institutional entities, are responsible for ending the crises. When the governance from them is insufficient, the crises will develop into protracted ones. Endless warfare and undesirable geographic conditions can also give rise to protracted crises.

Socio-economic conditions are critical to agricultural production as well. Apparently, countries suffering from protracted crises cannot provide the ideal conditions. Many of the long-lasting crises are extremely difficult to eradicate. Therefore, we need to increase the resilience and adaptability in the face of those crises.

## **Food chain crises**

Different parts of the natural system are organically connected with one another. Food chain crises refer to events related to the growth of animals and plants. Shocks in the food chain are likely to influence agricultural production.

Pests are troublesome in underdeveloped regions. Without proper responses, they can reproduce in incredible rapidness and eat up the crops which are supposed to be supplied to human. Desert locusts are the most notorious migratory crop pests because of their rapid outbreak and their damage scale. Locusts can spread over about 30 million square kilometers, affecting as many as 60 countries. In the last major desert locust disaster from 2003 to 2005, the livelihoods of about 8 million people were affected in northern and north-western Africa. More than 13 million hectares of land were sprayed with chemical pesticides to end the plague. (FAO 2009)

Livestock is not free from natural fluctuations either. Diseases among animals can be extremely communicable and fatal. Some of them develop into transboundary ones and affect agricultural production in

more than one continent. Last year, millions of domestic and wild pigs caught African Swine fever. Originated in sub-Saharan area of Africa, it cracked all the way up to Asia. Till now, no vaccines or treatments are available, which leaves reducing numbers of livestock the only alternative.

Food chain crises will be more frequent in the coming years because of people's centuries of intervention in the natural world. Precautions that enhance the ability to prevent and respond to those crises are urgently in need.

To sum up, agriculture is still one of the most vulnerable sectors, being susceptible to a wide range of factors. Natural hazards, protracted crises and food chain crises are the most unsettling challenges faces by the agriculture department. Developing

resilience minimizes the impacts imposed by those elements and stabilizes agricultural productivity. With a steady output, we can diminish the number of people suffering in hunger due to agricultural fluctuation and make giant steps in attaining 'zero hunger'.

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# Rethinking the End of History Claim: The World in the 21st Century

Wang Xiaoyi

## 梗概

1989 年，弗朗西斯科·福山提出“历史的终结”。以现实主义作为主要分析工具，本文结合历史事件对该论断进行讨论并指出以下三点：首先，合作的平衡极易打破，竞争仍是常态；其次，“9·11 事件”后，美国增加对国家安全的关注与投入；最后，源于历史主义的“历史终结论”存在过度概括和主观化的根本问题。

In 1989, Francis Fukuyama claimed that the end of the Cold War marked the end of history in *The National Interest* journal. In his thesis, Fukuyama contended that when the Cold War approached its end, it heralded the triumph of economic and political liberalism, as all other ideological alternatives turned out to be failures in history (1989). Fascism was defeated in the Second World War; Communism was proven severely damaged after the dissolution of the Soviet Union.

Therefore, it is suggested that human history will, in the long term, culminate in the universalization of liberal democracy. This paper aims to prove that Fukuyama's claim that the end of the Cold War marked the end of history is not universally valid. To develop the argument, this paper takes the following three steps. First, it admits that with the trend of globalization, liberalism has massively enlarged its sphere of influence in contemporary society. However, with realism as its primary analytical tool, this paper then argues that cooperation is temporary, but competition is at the root of a self-help world. Moreover, it proves that national interests are still the top priority, with security at its core. Lastly, this paper proceeds to argue that the End of History claim itself is on shaky ground since it originates from historicism which is a questionable concept.



From an economic perspective, the growing trend of globalization has greatly promoted the liberal proposition of the market economy. As is elaborated by the theory of comparative advantage, all nations benefit from the free exchanges of goods under the price-specie-flow mechanism in which trade imbalances will rebalance by itself (Schumacher, 2013). Globalization, an irresistible trend of world market integration, demonstrates how the world embraces and benefits from the liberal idea of economic freedom and cooperation. Numerous data validate the popularity of globalization. According to the World Bank, the ratio of the value of world trade in goods and services to the total value of world output was 19.2 in 1991, while in 2017, it nearly doubled, reaching 29.384 (2018). Also, it is estimated that between 1980 and 2010, the global trade in total multiplied by almost 35 times (Erixon, 2018). As globalization drastically reduces the barriers to the mobilization of the labor force, raw materials, land, and other resources, companies are enabled to find the most suitable providers regardless of distance. Pressure derived from competition between multinationals, together with reduced production costs, results in lower commodity prices, which eventually benefits the consumers.

Also, liberal democracy has gradually gained ground since the end of the Cold War in the 1990s. The most convincing evidence of its popularity is the increasing rise of liberal democratic states around the world. Formal communist allies within the grip of the USSR (Union of Socialist Soviet Republics) went through tremendous political and social upheavals before or after the downfall of the exemplary communist practice, which ushered in an era of growing liberal democracies. Particularly, Central and Eastern European countries such as Lithuania and Latvia are among the leading representatives. According to Our World in Data (OWID), in the year of 1991, when the Dissolution of the Soviet Union took place marking the end of the Cold War, there were 67 democracies around the

world. Twenty-seven years later, in 2018, democratic states outran autocracies, adding up to 99 worldwide (2019). In spite of the controversy over the refugee crisis and the accusation of "illiberal democracy" in some of the democracies, generally speaking, fundamental liberal values such as democratic election, the rule of law and market economy are widely exercised in these countries.

From the above points, Fukuyama should be given credit for predicting the prevalence of liberal democratic ideals and practices. Nevertheless, recent strategic shifts of major powers in the liberal world, especially that of the United States of America, has caught the world's attention. Its turning from multilateralism to protectionism and from morality to inhumanity questions the conclusion of Fukuyama's thesis; thus, there is growing doubt that whether liberalism is as comprehensive as expected. As such grand transitions linger on, several pairs of ideological rivalry concepts come to the central stage. Liberal cooperation seems to be only temporary while competition remains the norm; with national interests being prioritized at the expense of morality, security concerns loom large. As is suggested by this paper, liberalism fails to account for several significant issues in the contemporary world, such as the Sino-US trade war and anti-terrorism, for which the realist perspective proves to be more able to offer explanations.

The role of cooperation is also recognized in realist arguments. Nevertheless, distinct from the liberal emphasis on mutually beneficial cooperation, one of the essential principles that unite all realists is that states are all in a self-help world, in which competition is the norm (Waltz, 2010). As is argued by Hobbes, states are in constant pursuit of power because they need more to maintain what they have possessed (1981). After the Cold War, with the US-Soviet antagonism went into the ash heap of history, the world underwent a sudden shift from bipolarity to unipolarity, heading

for multi-polarity. Therefore, the US has experienced a period of power vacuum with its unchallenged predominance in the world order. Without doubt, globalization, one of the defining features of this epoch, has penetrated almost every part of the world. But cooperation, according to realists, is a significant form of self-help undertaken after states' careful evaluation (Glaser, 1995). As national interests are always in conflict, interdependence is not the destination but a mere stage of the world order; once the premier power is threatened and protectionism is deemed competent to balance the rising power, cooperation will give way to confrontation.

America has long been the champion of the global free market, acting as a beacon for liberal forces around the world. However, increases in China's economic power prompted responses from the United States the same as those did during the US-Soviet confrontation by growth in Soviet military strength. Statistics show that since 2017, China has become the second-largest economy in the world in terms of the Gross Domestic Products (GDP), only second to the United States (Statistica, 2019). After Donald Trump took office, since 2018, the United States inveighed against free trade agreements and initiated several rounds of import tariffs, which mainly targets China, leading to retaliatory tariffs and diplomatic negotiations. Few economists suggest that import tariffs effectively address trade deficits (Sarkar, 2018). Realists illustrate the motive in abandoning the liberal values but seeking protectionism, "U.S. protectionism is based on mercantilist principles which regard world trade as a game with winners and losers measured in terms of their trade balances" (Park, 2018). Even though America profits from bilateral or multilateral trades, the cooperative situation remains unstable when an emerging power is on the rise, threatening or seemingly threatening the dominant role of the US economy.

In this realist tradition, national interests continue to be at the top of the agenda, with

security concerns of paramount importance, which is linked to the second argument against Fukuyama. Though the last decades of the 20th century have witnessed the growing importance of economic strength instead of military power, the September 11 again lends credence to realist emphasis on national security, while questioning the credibility of long-standing peace under economic cooperation upheld by liberalism. One of the most convincing proof is America's dedicated efforts to counter terrorism, exemplified by the considerable rise of military expenditure and the growing presence of American army forces globally. For one thing, The US defence spending surged after the September 11 and continued its rising momentum. Within ten years after 2001, the US military discretionary spending grew by 50 percent, while non-military one only increased 13.5 percent in the meantime (National Priorities Project, 2019). For another, from Al-Qaeda to the Islamic State of Iraq and Syria (ISIS), America has been caught up in wars in Afghanistan, Iraq, Syria, Pakistan, and so forth, most of which are still in a stalemate. As is predicted by Neta C. Crawford, it is very likely that the US defence spending will be still on track to climb up unless the US shifts its national strategy (2018).

Moreover, the US strategic re-emphasis on national security even undermines liberalism in that it chooses the side of national interests when they contradict with moral values, retreating from the basic principles of liberal democracy, such as privacy, freedom, and so forth. On the domestic level, shortly after the terrorist attack in 2001, America introduced a series of laws and policies in the name of defending its national security, which severely trampled on civil liberties. For instance, the Patriot Act issued in 2001 entitled the government to spy on innocent citizens' mobile phones, email boxes, or bank accounts in order to keep track of possible terrorist activities. On the global level, as the 'War on Terror' unravels, covert torture under the official sanction of the States has been exposed to the public. Maher Arar, Abed

Hamed Mowhoush, and Martin Mubanga are all examples of those victims who have been subjected to violent and abusive physical and mental treatments by the US military forces (Bellamy, 2006). The 'ticking terrorist' argument is often adopted by the US for justification, claiming that coercive interrogation will thwart possible terrorist attempts, but as is argued by Ruth Blakeley, it is not reliable at all to deem that credible information is the necessary outcome of investigative torture (2007). For all the excuses, such actions question the validity of the Universal Declaration of Human Rights.

When evaluating Fukuyama's claim, even if we let aside all the discussions on which ideology will triumph by analyzing current situations, the notion of the end of history itself is a problematic one. As is admitted in the article, this notion has its Marxist origin and can be traced back to Georg Wilhelm Friedrich Hegel (Fukuyama, 1989). The problem here is such a historicist claim is, in every sense, an over-generalized statement based on subjective judgments. First and foremost, the word "history" is at the center of controversy. As is elaborated by Karl Popper, "history has no end nor meaning, but we can decide to give it both" (Popper, 1966). In other words, history is embodied with human selection and evaluation of historical events. To be more specific, there is no such concept as an all-inclusive human history, which is comprehensive enough to encompass all the personal actions, emotions, preferences of human beings aging from 9 to 99. Considering that, nor can anything bring an end to it. Therefore, historicism advocated by Hegel and Fukuyama, in essence, produces only one subjective version of the meaning of history, and then proceeds to argue that the fragmented and limited aspect of the past is the whole picture and speaks volumes for the future. Nevertheless, there is no denying that the theoretical analysis of historical events provides insights into ideological shifts. It indeed sheds light on

ideological evolvement, but it is by no means a determinant in an all-inclusive history.

To conclude, this paper argues that the claim that the end of the Cold War marked the "End of History" is not universally valid, beginning with introducing the main idea of Fukuyama's End of History claim, which refers to the liberalism triumph over all other ideologies. First, it covers both economic and political aspects of the status quo, in order to prove that liberal ideas have been promoted either by the prevalence of globalization or the expansion of democracies. Then it proceeds to argue that despite these, realism outperforms liberalism in explaining mainly two points. For one thing, in a self-help world, the balance of cooperation will be easily broken, and competition remains to be the norm, as the threat posed by an emerging power prompted the US to start the trade war against China. For another, the main realist concern on national security is evidenced by America's increasing anti-terrorism efforts after 9/11, which turns out to be undermining moral regimes. Lastly, this paper centers on the End of History claim itself and points out that it is based on a shaky logical foundation in that historicism simplifies issues by over-generalization and subjectivity.

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# Space for the Benefit of Human Rights

Chen Yuxi, Zhang Xiaoyu

## 梗概

人类探索太空的步伐正逐渐稳健，太空探索的成果不断造福地球。目前指定的外太空相关条约中还未明确提及人权，但太空技术已经发展到了增强人权保护方面。本文根据随着太空时代到来而产生的人权含义变化，以及太空技术和人权保护之间的紧密联系，探讨如何让太空技术在最大程度上保护人权。

## 1. Development of human rights until the Space Age

### 1.1 The evolution of "human rights"

Along with human society, the significance of human rights evolves from birth in 1789 to here and now. Human rights have an in-depth connection with the era as a clear-

cut reflection of human will. In the widely approved “three generations of human rights” theory, the substantial value of the inherent human quality experienced distinctive stages following three watchwords of the French Revolution: Liberty, Equality, Fraternity.<sup>1</sup> The first two generations of human rights fostered a systematic global mechanism of human rights protection guided by the United Nations.

Vague in content, the recent third generation of human rights sets against a more globalized and complex background. The meaning of “human rights” is expanding in multiple dimensions. The content of human rights broadens with the specification of the existing rights and derivative concepts such as the right to privacy, the right to health and sustainable environment, etc. The subjects of human rights break the parameters of not only genders, races and religions, but also the time—the protection of human rights has shown deep concern for the future of the humankind, the planet, and space.

The space age unquestionably enriches the significance of human rights, as it dilates the boundary of the applicability of human rights. Up to the present, human rights have confronted inapplicable space-featured situations, to name a few, the space environment, the space commercialization, the legitimacy of the space station, and the space technology divide. Yet, there hasn’t been any explicit reference to human rights protection in current space-related treaties.

## **1.2 The human rights concerns under space-based technology**

At one time, on account of the insufficiency and inaccuracy of the evidence, human rights violators could easily make falsification, refute victim testimony and

continue to be rampant. Also, efficacious intervention and assistance in time were impractical due to the inability to monitor and communication. Whereas, in accordance with United Nations Principles Relating to Remote Sensing of the Earth from Space, which proposes the usage of Earth Observation satellites, the technical obstacles seemed to be surmountable under the utilization of space technology. Since the first application of satellite in disclosing colossal graves in Kosovo<sup>2</sup>, space-based technologies have been utilized in providing valid proofs and telecommunication, monitoring human activities and reinforcing strategies.

However, with a wider application of space-based technology, not only its limitations on account of technical, economic and political barriers but also potential problems brought about, such as environmental ethics, human rights of astronauts, privacy protection and new colonization, etc., have raised global awareness. What’s more, considering the further exploration of space and the construction of space cities, space law would need to be perfected since the human rights in outer space concerning about resource exploitation, human activities and properties are going to be redefined.

## **2. The role of space technology in human rights**

### **2.1 Benefits**

#### **2.1.1 Governmental intervention**

There exists evident and ongoing interaction between governments and space technology in guaranteeing human rights. While governments act as a decisive incentive for space technology to develop, space technology, in turn, aids the policymakers and tribunals with extensive evidence

<sup>1</sup> Spasimir Domaradzki, Margaryta Khvostova, David Pupovac, “Karel Vasak’s Generations of Rights and the Contemporary Human Rights Discourse”, *Human Rights Review* (2019)20:423-443, 6 September 2019, <https://doi.org/10.1007/s12142-019-00565-x>

<sup>2</sup> “Kosovo: Lessons from the Crisis, Report to Parliament by the Secretary of State for Defense,” The Stationery Office, London, England, June, 2000, p36



collection and sensitive observation of the strategy.

Public decision-making depends on the decision situation, i.e. the given circumstances where specific policies are based. Limited information often brings about deviation in strategies, even worse, the affliction in people's lives. With growing recognition of the relationship between policymaking and information acquiring, policymakers have turned to the development of evidence collecting technology. The Pew-MacArthur Results First Initiative has drawn a framework to support the system of evidence-based policymaking, of which the key components are: programme assessment, budget development, implementation oversight, outcome monitoring and targeted evaluation.<sup>3</sup> The evidence-based policymaking acts centre on program evaluation to produce accurate data, analytics, etc. as a significant reference in formulating policies.

When it comes to human rights protection, public decision-making needs improvement on its promptness and precision of the gathered information—the timelier and more accurate the examination of the decision situation, the more favourable the outcome. To be more specific, in monitoring human rights violation, recourse to the traditional way of eye-witnessing results in imprecise testimony and leaves correspondent agencies in danger; and in the jurisdiction of cases of human rights violation, insufficient and infirm evidence baffles the verdict. Up to the present, many countries acknowledge digital evidence reliable in court. This lately acknowledged evidence is an arch-enemy to the electronic crime or e-crime, and an advancement in the evidence collection for human rights violation.

In this case, space technology performs evidence collection of human rights

violations objectively and verifiably. The United Nations Office of Outer Space Affairs asserts its implementation of Sustainable Development Goal 16 regarding peace, justice and strong institutions through space technologies including conflict monitoring, enabling the participation of remote and isolated communities in democratic processes, enforcement of legislation and access to reliable information.<sup>4</sup> From an international perspective, the present situation calls for the “best weapon” to combat human rights violation. Under consideration of international peace and national stabilisation, policymakers are prompted to make timely decisions of international intervention to avert an upgraded crisis. Space technology is going to be a crucial element in accomplishing this interaction. For instance, the near-real-time capacity of satellite sensors with detailed satellite imagery provision can reinforce enforcement teams with mission deployment.

### 2.1.2 Environmental Justice

There is no doubt that countless measures have been adopted to eliminate environmental injustice; however, the effect was not obvious. Recently, scientists have discovered that space-based technology can promote human rights by providing new forms of social and environmental protections which are much more resilient and feasible.

First and foremost, space technology not only provides us with the valuable data source for the description, derivation and quantification of environmental characteristics but also contributes to the detection of the environmental variation. Satellites, such as satellite radar altimetry, are utilized to acquire precise information about ice sheet volume, sea levels and atmospheric chemical composition and

<sup>3</sup> “Evidence-Based Policymaking”, Pew-MacArthur Results First Initiative, Nov 2014, <http://www.pewtrusts.org/~media/assets/2014/11/evidencebasedpolicymakingaguideforeffectivegovernment.pdf>.

<sup>4</sup> UNOOSA, “Space4SDGs – SDG16: Peace, Justice & Strong Institutions”, accessed February 27, 2020, <http://www.unoosa.org/oosa/en/ourwork/space4sdgs/sdg16.html>.

greenhouses gases. Moreover, satellites are of great importance of the detection of topographical changes. Satellite imagery supplies us with an overall and real-time perspective of global terrain. For example, we can discover biological activities and estimate ocean primary production according to the color and temperature of ocean<sup>5</sup>. Satellite images also can be used to identify land types and vegetation coverage.

Apart from that, by analyzing these variations, not only some disasters can be predicted, but also certain human activities can be supervised. The application of space technology sticks out for the reduction of financial costs and unnecessary evacuations by advancing forecasts and presenting the whole picture of events, such as natural disasters and extraterrestrial threats. Also, by monitoring the geographical circumstances with very high-resolution satellite imagery, governments can uncover illegal activities adequately, like poaching, banned fisheries and lumbering. In addition, Satellite imagery can assist in pinpointing emissions and pollution according to the distribution of a particular substance. For instance, Copernicus Sentinel-5P launched by ESA (European Space Agency) in October 2017 can effectively track carbon monoxide, nitrogen dioxide, ozone and aerosol.<sup>6</sup> What's more, by identifying sensitive nuclear materials, special discharges and overseeing the mode of nuclear operation, satellites contribute to disclose undeclared nuclear activities and investigates nuclear fuel cycle activities

Last but not least, space technology is conducive to the management and rehabilitation of natural resources. The

utilization of telecommunication empowers information sharing in real-time so that people can acquire global assistance and disaster warning even in remote areas. Additionally, relevant authorities can adopt more suitable and precise governance initiatives by evaluating practical conditions. Precision agriculture is widely applied by farmers in Australia to divide zones for fertilizer and to monitor variability in crops to enhance overall productivity.<sup>7</sup>

### 2.1.3 Systematic Violence

The Rome Statute of the International Criminal Court has included torture, enslavement, sexual violence, murder or extermination of civilians in a "widespread and systematic" way into crimes against humanity.<sup>8</sup> Recently, scientists have discovered that the application of space-based technology conduces to tracking systematic violence by monitoring the change of buildings.

Up to now, experts have made a discovery by satellites that there are 40 million slavery people involving debt-bondage and child slavery worldwide nowadays.<sup>9</sup> To begin with, since most of the slaves are often distributed among certain sites for labour work, such as stone quarries, brick kilns, fisheries, mines, forests and construction sites. And the accurate pictures of such systems within commodity supply chains can be revealed by high-resolution satellites. Moreover, on account of the dynamic images, relevant sectors can obtain their operation patterns and enact effective target interventions. Lastly, in accordance with different operation patterns and moving

5 A. F. G. Fiúza, "Operations Research and Management in Fishing, " 1990, 257-279

6 ESA, "Sentinel-5P brings air pollution into focus," December 1, 2017, [http://www.esa.int/Applications/Observing\\_the\\_Earth/Copernicus/Sentinel-5P/Sentinel-5P\\_brings\\_air\\_pollution\\_into\\_focus](http://www.esa.int/Applications/Observing_the_Earth/Copernicus/Sentinel-5P/Sentinel-5P_brings_air_pollution_into_focus)

7 Cooperative Research Centre for Spatial Information, "The Value of Earth Observations from Space to Australia," December, 2015, 70-78

8 Amnesty International, "Myanmar: Crimes against humanity terrorize and drive Rohingya out," October 18, 2017, <https://www.amnesty.org/en/latest/news/2017/10/myanmar-new-evidence-of-systematic-campaign-to-terrorize-and-drive-rohingya-out/>

9 International Labour Office (ILO), Geneva, "Global estimates of modern slavery: Forced labour and forced marriage," 2017, 9-15

trails, we can speculate the type and origin of population, like trafficking, refugees, persecution, etc.

Apart from that, satellites contribute to the identification of the massacre. Satellite images can be utilized to monitor variation in the landscape by demonstrating static aerial images over time. These images which cannot be erased are beneficial to determine the occurrence and extent of damages by detecting destroyed infrastructure, bombings and mortar shelling, and mass livestock death and theft. Up to now, we have pinpointed much systematic violence through satellite imagery. For example, satellites in "Eyes on Darfur" launched in 2007 were aimed at providing an opportunity to overcome the insufficient collection of information and to disclose "ground truth".<sup>10</sup> Also, satellite images contracted by Amnesty exposed systematic burning of Rohingya villages in Myanmar and drew global concerns about potential ethnic cleansing to Rohingya.<sup>11</sup>

#### 2.1.4 Public awareness and communication

It is beyond a doubt that space-based technology raises awareness in the global public sphere of human rights violations. For one thing, the Internet and mobile phone technologies relying on telecommunication satellites are available to global citizens to deliver their expressions and reveal violations of human rights. Some of these unofficial sources can be applied for international judgement and decision making process for reference. For another, telecommunication can be served as a tool for governmental intervention and can enhance the public cognition about relevant principles and conventions through television station and radio broadcasting.

## 2.2 Threats

### 2.2.1 Limited covers of humanitarian aids

Theoretically, space technology improves humanitarian aids, which are pivotal in the improvement of human rights. Nevertheless, there is a severe lack of guaranteed humanitarian aids in the international society. Many people of the unstable social background still suffer from the violation of their human rights with no secure access to the cutting-edge tools even if some are open-source. Both objective and subjective factors account for this predicament of incomplete humanitarian aids coverage.

In the field of technology, space technology has limitations that block itself from obtaining every bit of the valid data. The imaging satellites, most frequently used technique in evidence collection regarding human rights, is a case in point. Most of them need to be reinforced with additional sensors of infrared, radar or lasers to overcome the disturbance of cloud cover and hours of darkness. Even so, few people can argue over the fact that space technology at this stage is banking on particular weather condition, at certain times of the year in specific geographical sites. And it is not space technology's forte to detect asymmetric conflicts between small militia groups, to which we can hardly give an immediate response.

In the field of finance, the accessibility of space technology varies from country to country, which results in some countries' disproportional expenditure in acquiring and applying space technology. For most humanitarian organisations in Africa, the satellite imagery, despite its marked effect, is too costly to be put into operation.

The technical shortages and certain government's obstructionism are an unfavourable mix. As space technology functions outstandingly in evidence

<sup>10</sup> Grant Gordon, "Monitoring Conflict to Reduce Violence: Evidence from a Satellite Intervention in Darfur", December 22, 2015, 13-22

<sup>11</sup> Jamey Keaten, "Satellite photos show 'systematic burning' of Rohingya villages in Myanmar," September 14, 2017, <https://globalnews.ca/news/3744636/satellite-photos-burning-rohingya-myanmar/>

collection, there exist governments that would rather raise the cost of space technology to cut down its application as best they can, and stand the pressure from international society, than make public their perpetration of human rights. North Korea was under investigation after the UN High Commissioner for Human Rights had suspected its difficult human rights situation, and the result conveys up to 200,000 prisoners in political prison camps under wrongful humanitarian abuses.<sup>12</sup> Human Rights Watch (HRW) reported the Ethiopian government's unjust violation by providing high-resolution satellite images of village burnings and destruction during the conflict in Ethiopia's Ogaden region, regardless of the Ethiopian government's denial.<sup>13</sup>

### 2.2.2 Privacy and Security

The application of space technology has gone under advancement and popularisation. However, the leading-edge technique could mean trouble if not controlled under a proper degree. To maximize the benefits and minimize the risks of space technology has gradually come into an international concern.

The application of space technology, mainly the navigation system and other techniques closely related to daily life, will capture a large number of personal information, straining the protection of personal information. Such violation of privacy through navigation application prevails in the world. Even the father of GPS was in a shock witnessing the scale of the technology's negative impact.<sup>14</sup>

With the so-called evidence-based on satellite imagery, the US Secretary of State Powell denounced Iraq carrying out lethal weapons programme on the floor of the UN Security Council, which brought about the Iraq war. The intelligence later gave an earth-shattering confirmation of such programme's nonexistence.<sup>15</sup> On the international stage, it is still premature to solely rely on space technology and its results, given that the data and information could be ambiguous, inconclusive and therefore, misleading. Objective, comprehensive and reliable data from neutral sources are in demand to counteract this situation, as the international society expected to formulate the principles of information access and to probe into the prospect of space technology application.

### 2.2.3 New Colonisation

In the Internet era, space technology certifies the stunning furtherance of human science; notwithstanding, it ushers in more significant challenges to equitable regional growth. The struggle against inequality is enduring and ceaseless. Today, the technological disparity between countries is great enough for a new form of colonization to take place. Information colonisation refers to the information technology control, information resource infiltration and information product dumping by country A in the commanding height over country B at an unfair disadvantage. Stimulated by the imbalanced media development, this new type of "colonisation" has a powerful drive to shift the world with the digital divide and information asymmetry. Technological

<sup>12</sup> "Q&A: North Korea's human right crisis", Amnesty International, 2013, <http://www.amnesty.org/en/news/qa-north-korea-s-human-rights-crisis-2013-04-08>.

<sup>13</sup> Van Wyk Jo-Ansie, "Space for Peace? The Use of Space Technology to Monitor Conflict Trends and Human Security in Africa", University of South Africa Institutional Repository, 2008, <http://hdl.handle.net/10500/13627>.

<sup>14</sup> Parmy Olson, "The 'Father of GPS' Really Doesn't Like Having His Location Tracked", Forbes, February 13, 2019, <https://www.forbes.com/sites/parmyolson/2019/02/13/the-father-of-gps-really-doesnt-like-having-his-location-tracked/#1848e8d75afa>.

<sup>15</sup> Jason M. Breslow, "Colin Powell: U.N. Speech 'Was a Great Intelligence Failure'", PBS, May 17, 2016, <https://www.pbs.org/wgbh/frontline/article/colin-powell-u-n-speech-was-a-great-intelligence-failure/>

inequality gives rise to irreconcilable clashes among countries, enterprises and individuals, thus contravening the equal human rights of the disadvantaged citizens.

### 2.2.4 Ecological Ethics

Even though space-based technology is regarded as a profitable instrument for assisting in resolving environmental problems, some ecological challenges occurred. Based on the report by European Space Agency, there is a remarkable increase in number and size of space debris generated in the process of outer space activities compared to 1984,<sup>16</sup> which not only probably causes damages to outer space shuttles and satellites but also poses threats to the earth. Furthermore, the invasion of

space creatures resulted from the landing of spacecraft and meteor impacts potentially gives rise to the disorder of the local ecological system. For instance, it is still vague whether the encroachment of Tardigrades which came out when Lander of the Beresheet mission crashed will impose potential harm to the moon.<sup>17</sup>

Human rights abuse, thriving in the shadows and hiding in plain sight, not only threatens the properties and lives of human beings but also impedes the development of the social productivity. The globe has sparing no efforts to protect human rights. Space technology has been applied to wider domains and has revolutionized the field of human rights protection. Without a doubt, how to bring the advantages of space technology into play and overcome its global challenges will be a major topic in this field in the future.

## The U.S. CLOUD Act and the U.S. Digital Hegemony

Zhang Xinyi

### 梗概

本文主要对美国 2018 年 3 月通过的《澄清境外数据合法使用法案》(Clarifying Lawful Overseas Use of Data Act, CLOUD Act) 进行了介绍和具体分析。美方称 CLOUD Act 旨在对现有境外数据管理进行合理化改善, 但世界各方对此法案态度不一, 此法案带来的影响也绝非仅仅改善数据管理而已。因此本文将从美国自身及世界各方反应出发, 探索 CLOUD Act 背后隐含的数据霸权企图。

Clarifying Lawful Overseas Use of Data Act, also known as the CLOUD Act, went over on March 23, 2018. (Wei 2018) It is used to update the legal framework for U.S. law enforcement agencies to request access

to data, which is stored on communication servers and cloud service providers. CLOUD Act clarifies previous laws and provides a limited mechanism for U.S. law enforcement agencies to request access to data stored in and outside the U.S.; More importantly, CLOUD Act also has additional protections for cloud content, including a new option for the U.S. government to enter into administrative agreements with other countries to manage enforcement requests.

From the perspective of a sovereign state, cross-border access to data for law enforcement purposes is mainly composed of two scenarios: first, the data that is required for law enforcement happens to be stored abroad; second, foreign law

<sup>16</sup> ESA, "Latest report on space junk," 2018

<sup>17</sup> Monica Grady, "showed a remarkable increase compared to the figure of 2017 when there were 19874 artificial objects spotted," August 9, 2019, <https://phys.org/news/2019-08-tardigrades-polluting-moon-indestructible-creatures.html>



enforcement agencies need to access the data that is stored in their own countries. (Network security Pathfinder 2018) CLOUD Act happens to come up with solutions for these two scenarios. Furthermore, the reason why CLOUD Act was brought on the table is covered next.

To begin with, the trigger for CLOUD Act is the case that is related to Microsoft Corporation. In December 2013, the Federal District Court in the Southern District of New York, issued a search warrant to ask Microsoft to assist in the investigation of a drug case and submit the e-mail content and other account information of a user to the U.S. government. (Network security Pathfinder 2018) The metadata about the login time and location of the user's e-mail did exist in the United States. According to the requirements of the search warrant, Microsoft has already presented it with both hands. However, the user's e-mail content data was stored in Microsoft's data center in Ireland rather than in the United States. Microsoft refused to provide it for the FBI and immediately filed a motion to revoke the search warrant.

The main legislative conflict, in this case, can be concluded as the different standards of data control. On one hand, Microsoft believes that the data stored in Ireland should only apply to the search warrants of Ireland, but not domestic warrants in the United States. As a result, search warrants are illegal, and Microsoft didn't need to enforce them. Therefore, this judging method, which is determined by where the warrants were issued, was called the standard of location. On the other hand, the government held the standard of the controller. According to the U.S. government, it was not necessary for U.S. law enforcement personnel to go to Ireland and to execute the search warrant, nor for Microsoft to send staff to do specific operations in the data storage location. The search warrant only required Microsoft to do certain operations and disclose data to the U.S. government. Therefore, the search warrant didn't need to apply outside

the country, and Microsoft was obliged to cooperate with the U.S. government to obtain the data. Very simply, the Supreme Court of the U.S. would finally decide which statement is in line with the legislative intent of the Stored Communication Act (SCA).

Obviously, in this case, SCA cannot provide a clear enough boundary of the ruling, and that's the reason why it is explicitly specified in the CLOUD Act. "A provider of electronic communication service or remote computing service shall comply with the obligations of this chapter to preserve, backup, or disclose the contents of a wire or electronic communication and any record or other information pertaining to a customer or subscriber within such provider's possession, custody, or control, regardless of whether such communication, record, or other information is located within or outside of the United States." (CLOUD Act 2018) Accordingly, Microsoft should submit its e-mail content stored in Ireland to the FBI after the FBI issued a search warrant.

For the second scenario, SCA stipulates that when a foreign government requests an organization governed by its domestic law to provide the communication content data controlled by the organization and stored in the United States through legal procedures, SCA prohibits the organizations in the United States from providing it to the foreign government in such a scenario. (Network security Pathfinder 2018) As we all know, the advantage position of American enterprises in providing network products and services is very obvious, so there are many countries that can't transfer communication content data from American organizations. For example, in the investigation of anti-terrorism cases, high-level British officials have publicly complained several times about the extreme difficulty of obtaining data from U.S. platforms, such as Facebook and Twitter. (Network security Pathfinder 2018) What's more, data access to other countries requires bilateral judicial assistance rather than directly facing enterprises. According to the research of American scholars,

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the average processing time for foreign countries to submit legal assistance requests to the U.S. government is ten months. Obviously, such speed cannot meet the needs of law enforcement agencies at all, especially in the rapidly changing Internet era.

In the face of two major difficulties, CLOUD Act allows "qualified foreign governments" to directly issue data retrieval orders to organizations in the United States. (CLOUD Act 2018)

Here rises the question: How to identify "qualified foreign governments"?

It is necessary for the Attorney General of the United States to make a specific determination after reaching an agreement with the Secretary of State. The core criterion for judging "qualification" is "whether the domestic judicial department of foreign governments, including the implementation of their domestic laws, provides robust substantive and procedural protections for privacy and civil rights". "Such determination should take into account the credible information and expert opinions, and consider the following factors" (excerpt below):

"Whether foreign governments have sufficient substantive and procedural laws in the field of cybercrime and electronic evidence, whether they have acceded to the Budapest Convention on Cybercrime, or whether their domestic laws are consistent with Chapter 1 and 2 of the Convention;

Comply with international human rights obligations or show respect for international fundamental human rights, including the protection of privacy from arbitrary and illegal interference, the right to a fair trial, freedom of expression of association and peaceful march, the avoidance of arbitrary arrest and imprisonment, the avoidance of torture and cruel inhuman or degrading treatment and punishment;" (CLOUD Act 2018)

Apparently, there are tons of legislative designs aiming for check and balance, and

the U.S. data sovereignty strategy is very clear:

First of all, the U.S actively promotes the APEC Cross-Border Privacy Rules (CBPR) System. The U.S strives for the accession of its traditional allies, including Canada, Mexico, Japan, South Korea, Singapore and Australia. The core essence is to force the participating countries to give up the high level of domestic protection in the cross-border flow of personal information, to recognize the low level of personal information protection in the United States, to promote the free cross-border flow of personal information, more accurately, to gather in the United States, or to facilitate the access and control of American companies. (Network security Pathfinder 2018)

Additionally, in terms of cross-border data retrieval for law enforcement, through CLOUD Act, the U.S. regulatory, law enforcement and judicial departments are allowed to retrieve data stored abroad by U.S. companies through domestic legal procedures to achieve their domestic purposes, while a small number of countries recognized by the U.S. government are allowed to directly retrieve data from U.S. companies for investigation and law enforcement in exchange for these countries to abandon the requirements of data location. (Network security Pathfinder 2018)

In this case, it not only provides the greatest convenience for the law enforcement action of the United States in the global scope, but also breaks the equal framework established by the original bilateral or multilateral judicial assistance mechanism, suppresses the law enforcement power of other countries with the advantage of the Internet industry of the United States, and increases the U.S. voice and standard-setting power in the field of network law enforcement cooperation. More importantly, it eventually leads to the final goal, the U.S. digital hegemony.

However, the aggressive CLOUD Act also causes self-harm that cannot be underestimated. With data location as

the judgment standard of jurisdiction, the location storage policy is widely implemented, which makes the U.S. Internet companies constantly transfer data to other countries. The U.S. also has the possibility to lose the dominant power over global data resources, while with the control of network operators as the standard, the protective effect of location storage is decreased. Moreover, the monitoring plans have made U.S. Internet companies face a trust crisis and access dilemma in other countries' markets. If the data location is used continually as the jurisdiction standard, it would promote Internet companies to establish data centers outside the U.S. and gradually get rid of U.S. government control, so the U.S. will lose the important tool of global monitoring.

The international society, especially the European Union, is willing to give a response to this aggressive act. Reuters reported that the EU is preparing legislation to allow law enforcement agencies to directly access data stored outside the EU from companies operating in Europe. (2018)

In the report, people familiar with the matter further revealed that EU legislation is not limited to EU citizens. As long as it is related to specific EU investigations, law enforcement agencies can obtain personal data of citizens of any country, provided that the minimum penalty for the crimes involved in the investigation is three years' imprisonment. And such radical legislation, in part, aims to increase their leverage in bilateral negotiations with the U.S. on related issues. In response, Vera Jourova, the EU's top justice official, also confirmed that "we must achieve reciprocity with the U.S. authorities". (2018)

As for China, personnel had expressed that the first was to strengthen the country's "prevention". It is mainly to enhance the system design of Article 37 of the Network Security Law, which clearly stipulates that "foreign judicial and law enforcement agencies shall obtain the approval of the competent regulatory authorities before

directly accessing the data stored in China." (2018) Secondly, China is supposed to liberalize China's "taking" moderately. Article 75 of the Cybersecurity Law states that China is of jurisdiction over the activities that are harmful to the information infrastructure from abroad. In order to implement Article 75 of the Network Security Law, it is inevitable for law enforcement and regulatory authorities in China to transfer large amounts of data across borders. For a long time, China has always adhered to the path of judicial assistance and should consider appropriate liberalization. On the one hand, meet domestic demand; on the other hand, form a hedge with the current strategy of the United States. (2018)

In conclusion, the CLOUD Act certainly brings inevitable benefits to the United States in digital monopoly and hegemony, but does digital monopoly itself bring absolute advantages to the American economy and its international status? Nobody knows that at this very moment. However, all the previous experiences had shown that the closed system at the international judicial level is bound to create a closed-loop, and the United States wouldn't be an exception. After all, the CLOUD Act has not been enacted for a long time. We need to wait for the specific effect to be determined when it deals with real cases.

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# Is genocide the result of anger and emotion, or reason and rationality?

Ge Tingyue

## 梗概

尽管种族灭绝被视作是政府主导的国家罪行，但在历史上的诸多种族大屠杀的案件中，多有大量平民人口参与的情况。这背后的推动力值得研究。除了最原始的仇恨感性推动，为使得大部分平民违背人性参与进这样不人道的杀戮行为，对理性的解读也是必不可少的。而现代种族灭绝主要是通过官僚主义来实现的。本文将从种族灭绝引导者和参与者的角色演变过程入手，分析情感与理性给这一过程带来的影响。

This essay will elucidate the roles that emotion and rationality play in the genocidal process. Though genocide is a crime of state<sup>1</sup>, considering the involvement of the whole society, the psychology and emotion still worth consideration in studying genocide. Also, in order to have the civilians' participation and the large scale of genocide, rationality is a necessity to modern genocide, which is mainly achieved by bureaucracy. Impact of both emotion and rationality, separated and combined, will be analysed in this essay following the evolvement and process of genocide.

The UN Convention on the Prevention and Punishment of the Crime of Genocide (1948)<sup>2</sup> defined genocide as acts "..... committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group"<sup>3</sup>. The Convention does not clarify the identity of the subject. Among scholarly definitions, "a dominant

group" (Dadrian,1975), "a government or its agencies" (Nusan Porter,1982; Wallimann and Dobkowski,1987), "a state bureaucratic apparatus" (Louis Horowitz) and "government elites or their agencies" (Harff,2003) were mentioned as the subject<sup>4</sup>. It seems that most of the scholars agree that genocide is a large-scale killing led by the government; at least it is state-sponsored, said I. Midlarskey<sup>5</sup>. Common sense will disagree that the government makes decisions out of emotion, especially when the decisions lead to the massive killing of civilians. From another aspect, the bureaucracy is more likely to follow the rationality, which will be discussed in the following part of the essay. However, the executioner is not always played by the government. The mass involvement of the civilian population is one of the reasons why the Rwanda genocide stands out among most of the genocide in history<sup>6</sup>. As concluded by Lozowick (2001), "articulated hatred of the Jews was a motivation force"<sup>7</sup>. Considering the realistic conflict between different groups, the participation and compliance of civilians as perpetrators and bystanders may better show how emotion works in the process of genocide.

With such a horrible and severe outcome, it is necessary to find out the origin and development of emotions functioning in the genocide, which will explain the uniqueness of those emotions from daily

1 Helen Fein, *Genocide* (London: Sage, 1993)

2 United Nations, *Convention on the Prevention and Punishment of the Crime of Genocide*, (New York, 1948), vol. 78, p. 277. Available on [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg\\_no=IV-1&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg_no=IV-1&chapter=4&clang=_en). Accessed 16 April 2019

3 Ibid

4 Adam Jones, *Genocide: a comprehensive introduction*. 2nd ed. (Routledge: Oxford, 2011),16-20

5 Jones, *Genocide: a comprehensive introduction*. 2nd ed,19

6 Alette Smeulers, and Lotte Hoex, "Studying the Microdynamics of the Rwandan Genocide. " *British Journal of Criminology*, 50(3)(2010):pp.435-454.

7 Andrew Austin, "Explanation and Responsibility: Agency and Motive in Lynching and Genocide." *Journal of Black Studies* 34, no. 5 (2004): 719-33. Accessed March 11, 2020. [www.jstor.org/stable/3180926.725](http://www.jstor.org/stable/3180926.725)



ones. According to different definitions, the collectivist nature of genocide clearly shows that the conflict is never personal. Such estrangement is the result of those inevitable differences between groups and difficulties in intergroup behaviours. As Austin<sup>8</sup> pointed out, "The expressions and actions of perpetrators, and the identity of their victims, are ultimately the products of a social and historical process." Take the Jewish Holocaust as an example. The origin of the concept of anti-Semitism can be traced back to the historical conflict between Christianity and Judaism. In order to enhance its status, Christianity had to set Judaism at the position against itself, deny and defeat it. By claiming Jews as the sinner who killed Jesus for centuries, the anti-Semitic inducement of Christianity made Christians hate Jews out of religious feelings. Thus, it made European Christians hate and disgust Jews<sup>9</sup>. After Christianity being legalised as the dominant religion of the Rome Empire, it gradually evolved into a universal and deep-rooted social consensus of hatred and disgust of Jews in Europe. Therefore, with the combination of its long history of existing and wide recognition, the impact of anti-Semitism eventually went beyond religion<sup>10</sup>.

In modern Germany, the widespread social consensus of disgusting and hating Jews was solidified by the inheritance of religious emotion, social role, and spiritual culture. Such mentality gradually turned into cultural precipitation and combined with social politics and economy. This combination later became a potential social and political spiritual force that is extremely sensational and irrational. Once used by some political aspirants, it can erupt like a volcano and become a mad social driver. Therefore, the widespread social consensus of disgusting

and hating Jews works as the social-psychological basis of Nazi Germany's policy of genocide against Jews.

In most of the cases, such widespread anger and disgust towards the victim groups, just as anti-Semitism, breed the conflicts and violence. Evidence can be seen from the hatred between Hutus and Tutsis in Rwanda, which was triggered by the interference of Belgium coloniser. People can also find similar religious factors as those in the Jewish Holocaust<sup>11</sup> in Ottoman's religious repulsion from the Armenian. That is because emotion function primarily to motivate behaviour, and emotion works on both group and individual levels. Scholars propose that emotions may change over time, and hatred and violence can be inculcated by using stories during this transformation. Hatred usually starts with anger. Then, to relieve such anger, the group gains the emotion of contempt by reinterpreting the situation from a position of moral superiority. So far, it is likely that hatred will have nothing to do with violence. However, if the reappraisal goes further, which concludes that elimination is necessary, that is the time when disgust is involved in hatred and the beginning of potential violence<sup>12</sup>. Things become out of control in this stage because people and groups value the target as naturally contaminated here and take elimination as the violence is clear now. Though, there are still other significant emotional factors playing as the motive of genocide. Fear of death is a significant one. In psychology, there is an explanation saying that people have a natural temptation to transfer their greatest fear to others. As a supporter of this, Charny further inferred that people are born with the ability to "unload our feared weaknesses"

8 Austin, "Explanation and Responsibility", 730

9 Elvin Staub, *The roots of evil* (Cambridge: Cambridge University Press, 1989)

10 Ibid.

11 Ronald Suny, "Religion, Ethnicity, and Nationalism: Armenians, Turks, and the End of the Ottoman Empire." In *In God's Name: genocide and religion in the twentieth century*, ed. Omer Bartov and Phyllis Mack (New York: Berghahn Books, 2001), 23-61

12 David Matsumoto, Hyi Sung Hwang, and Mark G. Frank, "The Role of Emotion in Predicting Violence," *FBI Law Enforcement Bulletin* 81, no. 1 (January 2012). 4-6

onto selected scapegoats, and those who are different and weaker are the potential scapegoats<sup>13</sup>. When realistic difference increases the emotional gap between strangers, it becomes more difficult for both sides to sense a "symbolic identification"<sup>14</sup> or concern. Based on Charny's study, it can be concluded that the inevitable differences make people from the dominant groups more likely to project their vulnerability to those from the weaker groups. In order to rid themselves of their ultimate vulnerability-death<sup>15</sup>, the perpetrators turned to self-protection. Furthermore, the method they took was eliminating the object of their fear; in other words, the victims were people who were projected onto with the perpetrators' vulnerability. With a projection of fear, the inner motive of the perpetrators was replaced by their imaginary self-defence. When there is fear-based primarily on the external threat, people come to too vigilant and project their vulnerability, which makes another threat of their own fear. Under the impact of double threats, they genially value the attack of their fear as self-defence. In this way, they psychologically legitimise their murders. However, it can be seen with the analysis above that the violence is actually motivated by fear. Though the perpetrators are not fairly legitimised by their own emotion, this imaginary self-defence indicates another function of fear. As a factor of emotion, fear functions not only as a motive but also as relief of moral pressure, helping the perpetrators denying their crime in their minds.

Along with the fear of death, there is also fear of being rejected by the group, which

means that fear can also come from the inner side of their own group. If Hutus refuse to comply with the order of killing their Tutsi neighbour, they themselves will be killed, said Lemarchand<sup>16</sup>. Under the great peer pressure, Hutus are more likely to commit murder. Such fear of punishment can also be expressed as an 'urge to belong'<sup>17</sup>. Other forms of fear, most of which are based on threat, can have a similar impact on the perpetrators and become their motive. It can be the danger of their families, potential wars, pressure from the authorities, and so on<sup>18</sup>.

In addition to fear, greed is also an important motive. As an "overriding theme in human affairs" (Marchak, 2003)<sup>19</sup>, greed is a fundamental principle guiding both perpetrators and bystanders in genocide. German historian Aly holds that the Nazis' power and support were based on their massive apportion of Jewish property (2005)<sup>20</sup>. Such 'Aryanization' of Jewish properties (Friedlander, 1997)<sup>21</sup> is similar to some cases in Rwanda Holocaust, where Hutus kill Tutsis to obtain their properties<sup>22</sup>.

So far, it is quite apparent that different emotions are the origin of genocide and the main driving forces of individual involvement. These emotions offer the inducement of the conflicts and social psychological preconditions, motivate the civilians to participate and induce them to self-legitimise the crime. Though emotions have such a strong effect, genocide cannot be made by only "spontaneous" mob violence<sup>23</sup>. No matter how dreadful bottom-up riots as the Kristallnacht are, none of them can be compared with the

13 Israel W. Charny, "A Contribution to the Psychology of Genocide: Sacrificing Others to the Death We Fear Ourselves," Israel Yearbook on Human Rights 10 (1980), 91-96

14 Ibid, 95

15 Ibid, 97

16 Jones, Genocide: a comprehensive introduction. 2nd ed, 391.

17 Smeulers, and Hoex, "Studying". 440.

18 Ibid, 435-454.

19 Jones, Genocide: a comprehensive introduction. 2nd ed., 388.

20 Ibid, 387.

21 Ibid, 387.

22 Smeulers, and Hoex, "Studying", 440.

23 Christopher Powell, Barbaric Civilization (Montreal: McGill-Queen's University Press, 2011), 103.

Holocaust in terms of scale, even if people add them up<sup>24</sup>. As stated before, rationality is necessary for modern holocausts. Both Powell and Bauman take great value in the necessity of rationality. Powell even stated that "the sheer scale of the genocide, the resources they demanded, and the potential logistical complexity of their implementation necessitated the techniques of modern bureaucracy"<sup>25</sup>. But he also stressed that it might not happen in all the genocide cases, considering that the Rwanda genocide had much more street murders than bureaucratic executions<sup>26</sup>. Stalin and Hitler are two extreme cases of abusing rationality. They consistently followed the main trend of the progress of the civilisation, marching to their ambitious goal<sup>27</sup>. The bureaucracy mainly works in two ways: disassociating violence from moral pressure and maintaining the procedure of genocide under control.

There are two methods that bureaucracy takes to increase the distance between behaviour and moral responsibility. One of them is blinding the participators by the division of work. A functional division of work enables the officers to see the whole procedure of social work while keeping the contributors focus on the limited parts they are taking without knowing the ultimate end of this chain. They may even have no idea in what way will their products be used by the next contributor, making the accumulated result more than that of a hierarchical division. Such a division limits the influence that individuals have on the ultimate result, therefore avoids the involvement of personal or group emotion. However, in another aspect, this makes it difficult to attribute the responsibility of genocide to these individual contributors. While people are working in ignorance, their work contributes to more than only genocide. They also maintain the regular running of society as usual. As a result of this, technological responsibility

replaces moral responsibility. A train driver will only concern the amount of gas for him to transport. But he has no idea how much Jews will be killed by the gas in his train. Emotions are not required here, but the division of work is also one way to assist the effect of emotion. In other words, it restrains the contributor's sympathy and guiltiness. Dehumanisation works in the same way, which makes it another effective tool used by the bureaucracy. Dehumanisation deprives the victims of social protection. By making announcements and propaganda, modifying the laws and stating the sin of the victims, the bureaucracy rid people of the restriction of natural law and moral condemn. Through this process, the state authorises genocide and legitimises crimes officially.

Other than managing the progress of genocide, bureaucracy also has its effect in arousing people's obedience. Again, this is another interdependence of emotion and rationality. The obedience and subjugation of the Germanic nation are actually based on fear, respect of authority and an instinctive need for security<sup>28</sup>. While in the case of Stalin's, personality worship plays this part. In order not to lose the self-protection of authority and not to incur the self-punishment of authority, people have to make their individual will subject to the will of authority. The combination of emotions and rational choices leads to the result of obedience, which contributes to the operation of bureaucracy.

In conclusion, this essay examines the roles that emotion and rationality played in the genocide. Though rationality is vital in modern genocide, it often requires the aid and precondition of emotion. The emotions analysed in this essay are more than anger. Anger can act as an initial form, then it transforms over time and evolves into hatred and disgust, which more directly motivate

24 Zygmunt Bauman, *Modernity and the Holocaust* (Cambridge: Polity Press, 1989), 89.

25 Powell, *Barbaric Civilization*, 103.

26 Ibid, 105.

27 Bauman, *Modernity and the Holocaust*, 93.

28 Staub, *The roots of evil*, 108-111

people to commit genocide. The position of fear cannot be ignored, because it intensified itself by the projection upon victims. All the emotional factors contributed to the massive killing and pillage in genocide. However, with the strong evidence in the Nazi genocide, it is rationality that makes the most of these emotional factors. Following the principle of rationality, the bureaucracy strengthens and manipulates these emotions and attempts to the goal of genocide. In general, genocide is the result of both emotion and rationality. Nevertheless, with a further look into their dynamic, theory and case, emotion weighs more in the evolvement of genocide. Rationality definitely helps, but since it highly depends on the base of emotions, it should give the crown to emotions.

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# How to build your own nuclear arsenal ?

## A five-minute quick guide

Jia Xuqi and Yang Zhiye

### 梗概

西元 2004 年，某东欧小国的领袖——自称为 [ 第一公民 ] 的谜之人物决定开发前所未有的先进兵器，以求打破一直以来各国对其的封锁与敌视。围绕在其周围的，是数位性格各异却又心怀鬼胎的内阁顾问们，与平凡的日常中伺机而动。

在前面等待着他的究竟是巨大的成功，还是更可怕的阴谋与制裁？

科学与国际政治编织而成的轻喜剧，就此展开！

### Chapter 1

Let's just say you were the Princeps of a random country located in southeast Europe, which has recently won its independence as well as a place among your unfriendly neighbours in this region. During recent years, this country has gradually forged its economy and regained its national integrity under the leadership of you. While enjoying the extensive popularity among the people, you know that in order to always keep your name at the right page of the history book, you must not be content of the accomplished. You look over at the horizon in the east, where the mushroom cloud once shrouding this entire continent arose, thinking the next focus of your nation.

"In one single atom, we see the entire universe." You speak to yourself. Nuclear, the magic word. The direct answer to all questions, the ultimate solution for all challenges. The energy crisis, social development, national security, employment. All of these problems can be solved with the establishment of a comprehensive nuclear industry, let alone to deter some neighbouring malicious Slavic nations. "The Princeps must think for his nation." Facing

the growing threat from them, you believe this is time for you to defend your people and to open Pandora's Box.

Of course, leading a country bordering on the former Soviet Union, you can always have professionals specialized in nuclear physics. After all, you were also among the zealous youth eager to sign up for the Soviet Strategic Rocket Forces to defeat the Western capitalists in the 1960s. If being lucky enough, you may also get the chance to pick up some left warheads abandoned but not entirely defused by the careless Russian military engineers. Moreover, this land is known to be rich in uranium, which gives you the advantage and natural resources to carry out your ambition. In short, with proper preparations and caution, building a nuclear arsenal is not completely impossible.

### Chapter 2

"Sir, I am here to deliver my report on the on-going project code name Sointse. In a word, it is going very well." Having been waiting so long for this report, you let him continue with it after greetings. After all, it was you who gave the name to this historic Project after the word Sun in your mother tongue, representing the high expectations and the magnificent power you wanted to achieve.

"Thanks to the support offered by your national forces and a handful of warm-hearted citizens, we have successfully located several mines rich in uranium. Mining operations are expected to begin within a week. All the preparations are done, and now we are waiting for your command. However----"

"Alright then, Let's make it happen. I can't wait to swing this nuclear blade to my foes."



"However, there is still one very little matter for us to decide, on which we will need your final words."

"What is it?" You ask.

"It is...a little bit...complicated," says Yadernikov in an extremely cautious voice, "We need your directions on what method we are going to use for the concentration."

"Just pick the quick one. I don't want to waste any longer. Tell me what our options are."

"Yes, Sir. As we all know, we will need to concentrate the uranium we have to 90%, which is also known as the weapon level." Having seen your open attitude towards this matter, Yadernikov begins to explain in a gradually-calmed voice, as if he was lecturing to his students back in the University of Minsk, "And as for the natural ores, the average purity is merely 0.7%..."

"Get to the point." You drop your words, urging him to skip all the academic analysis.

"Currently speaking, we have two possible approaches to concentrate our uranium. The first one is called Electromagnetic Separation, on which same technology we base to make a mass spectrometer in common labs, but on a much larger scale. Because the uranium atom's specific charge is different, we can use a magnetic field to separate uranium from other elements. It's easy to build such a machine, but it's not very productive. The Americans who adopted this method to make their nuclear bomb recruited 25,000 workers and over 1,000 separators in total. Even if we managed to build an array of this many people, it would take us more than four years to gather the enriched uranium needed for the first atomic bomb."

"That's so much slower than I expected." You reply.

"And the other option we have onboard is the Centrifugal Separation. Although it has a fancy name, the principle it is built on is very simple. The uranium atoms are heavier than other atoms, so we can separate them

by constantly making them spin around. It's fast and also safe. But the problem is that such centrifuges must bear at least 40,000 to 60,000 rounds per minute, which is totally beyond our capability of mechanic engineering production. Iran once bought several such machines as samples to study and the machines were spotted by the CIA immediately."

"Hmm..." Considering the pros and cons of both methods, you are lost in your own thoughts and remain silent for quite a while.

"Fine," when Yadernikov is about to light up his third cigar, you make up your mind, "Let's go with the less fancy one. After all, soft fire makes sweet malt. I don't want to be caught by the Americans or the Russians. Easy and steady, will you?"

"You got it, boss. But I have to tell you in advance: don't have high expectations on the firstborn. This is not my first time to build a nuclear weapon," he says. "But the condition in your country is, if I may say, too poor to commence such a magnificent project."

Offended by such comments, you feel a bit displeased. However, out of respect to this old and famous Belarusian specialist kidnapped by your agents, you choose to let him continue his explanation.

"Perhaps you think making a nuclear bomb is something as easy as making a handy tool in your own garage. However, in reality, it involves many advanced technologies that can't be simply replicated. Your country's industry is still at the primary stage, and a lot of equipment it offers can't even meet our lowest standards. The most likely outcome is that we may have detonation problems on this first bomb."

"OK. What kind of problem, then?"

"Technically speaking, it is very difficult to keep the nuclear materials at a subcritical mass level for safe storage and turn them onto the critical mass level in a flash before detonating, let alone providing an adequate number of neutrons to light up the chain

reaction. Usually, this process of designing requires many field tests to perfect our mathematic models. Unfortunately, I believe we can't afford the time or space. So, it is probably going to be a so-called dirty bomb, which means that the radioactive matters in the bomb can't have a complete reaction and the site we blow it on is going to be very nasty."

"That will do." Now you realize how many efforts did the Americans, the Russians and the Chinese make on this tiny device, as well as the fact that you are at the crossroads of history, "Let's get it done."

Seeing Yadernikov leave your office, you feel a bit concerned about the project. But on second thought, if Sointse did really succeed in the next four years, your country would establish an absolute hegemony in this region. Thrilled by the idea of having your nuclear arsenal at reach, you are immersed in the grand vision of dominating the regional order with the nuclear blade.

### Chapter 3

It is a beautiful day in early autumn.

Sitting in the big leather armchair drumming your fingers on the desk, alone in the arc office, you wait patiently for someone.

Professor X, one of the head members of your think tank, strides across the room. You nod your head.

"So, from what I've heard of so far, we are going to build our nuclear arsenal?" Prof. X pulls up the chair across the desk.

"Exactly," you say, and stop fiddling the fingers, "That's why I want you here. To analyze what might be the follow-up."

"Well, I may not be a full-time nuclear professional. But I do know one thing for sure." Prof. X pauses, and takes a deep breath, "We may have our nuclear deterrence. Congratulations."

"Please, do enlighten me."

"Well, according to the deterrence theory, once possessing a mass destructive weapon, even the weakest state can deter much stronger power with possible counterattacks. And our nuclear deterrence is literally about making our enemy feel threatened with our up-coming atomic weapons.

Yet I have to remind you, my great Princes, that there are other things to worry about apart from simply building a nuclear bomb.

The one and only precondition of achieving deterrence is that we, as well as the opponents, act 'rationally'. Yes, I am making the air quotes. Because what 'ration' means may vary, depending on which country's making the decision.

A classic example on the other side of the coin is the Cuban missile crisis during the Cold War. When it became clear that the United States was ready to defend its core security interests, the Soviet Union withdrew the missiles it had started to deploy in Cuba. It was a clever deterrence, but also too bold a move.

But let's presuppose neither of these extreme cases will happen, which are, indeed, of small odds. What I'm saying is that ..."

He stops to reach for a glass of water.

"In short, our scoundrel neighbours will be," says Prof. X with a victory grin, holding the glass to his lips, "Terrified... mortified... petrified... stupefied... by us."

"That's good." You try hard not to sound complacent, "That's really good."

You may succeed in restraining the tremendous exuberance on the outside. But on the inside, you can't help to picture a big, glorious blueprint, as real as a mirage not far from where you are. In the very near future, your great nation will finally rise up. Your strategy of nuclear deterrence will keep the rest of the obedient countries as mute as a fish. Because if they dared not to, you, the one and only Princes, would destroy

them in a click of the cute, precious nuclear button.

## Chapter 4

"Yeah, it's good theoretically. But here's the thing," his face suddenly becomes gloomy. "In a credible MAD scenario, which refers to a Mutual Assured Destruction situation, nuclear deterrents must always be at the ready, yet never used. We need to have them to maintain a high level of instant and overwhelming destructive capability 24 hours a day, 7 days a week against any aggression. This means... Money. The Chancellor will catch up with you."

Your eyes are wide open now because of shock. The delusion of grandeur, which was so clear and touchable minutes ago, now gradually begins to fade away.

"Oh, and I'm not going to boast about my knowledge of foreign affairs. But currently, the international community does not like the idea of having any new nuclear state at all. I've read articles from the 'western' media, arguing that risks of nuclear accidents, misjudgments about situations or unauthorized missile launches are growing more acute for us, relatively new nuclear states. They believe that we lack the security safeguards, and will do anything they can to stop us." Prof. X sips again from his glass and continues his talk.

"Yeah, I know it sounds crappy enough, not to mention the worst case."

"What... is the worst case?" Fully alerted, you sit up straight.

"Once the MAD equilibrium is broken, everything is literally going to get mad. I think we both know what had happened to Hiroshima when Japan misbehaved. One blast. Then silence. Mushroom clouds rising. Acres of ruins. 70,000 dead bodies.

But if we elevate the grade of a nuclear attack in the 1940s up to a nuclear war between two countries in the present, which means either country can make a second

strike, things could be even worse. Please allow me to give you a few hints.

A couple of seconds after, the blast shakes the earth and the smothering thermal radiation swallows the country. The world becomes as bright as heaven, and instantly as grey as hell.

A couple of hours after, the fallout becomes even more radioactive, attacking your subjects, exposed or hidden. Genetic mutations are on their way.

A couple of days after, aftermath firestorms continue spreading across the continent, and they eventually generate enough soot to block out the sun entirely. Here comes the nuclear winter. Average temperature decreases by decades of Celsius degrees. The frozen environment is catastrophic for any form of life if there will be any left.

A couple of years after ... I just wish we could live to see a couple of years after. No wonder why Albert Einstein did say, 'I know not with what weapons World War III will be fought, but World War IV will be fought with sticks and stones.' When that day comes, our successors will be discussing how to sharpen a stick in grunts and shouts."

You uncomfortably squirm in the armchair, trying to stay wide-awake and make sure you hear him correctly.

"To tell you the truth, my greatest Princeps... Even if we did manage to build a nuclear arsenal out of thin air and survive their first nuclear strike, the ability and the will to retaliate still are nothing but our own words. They, who we wish to deter, may not buy it in the first place. After all, err... One can't come up with a formula to change the way he experiences the world."

After dropping those last few words, Professor X storms out of your office.

You are shocked. "What now?" you say to yourself, now standing up from the soft armchair. "Am I just going to give up?"

## Chapter 5

It is another beautiful day in early autumn.

"Sir! We've got an emergency, Sir!"

"Don't you see I'm working right now. You fool!" Rising up from your armchair and comic books, you glare at Antonov Saperovski, your chief of staff, who rushes into your office with a newspaper in his hand.

"I am terribly sorry to bother you, Sir. But you have to take a look at this." He passes the newspaper to you, "Our Project was discovered by the Americans, and now the UN Security Council has issued sanctions on us. And the Russians... they have betrayed us, their Slavic brothers! Their troops are mobilizing, and our intelligence network has been compromised! All these pieces of evidence suggest that we are on the edge of an invasion!"

"OH, BLYAT! Rally our people and get the atomic bomb ready. It is time to defend our country and set fire on those shameless invaders to our motherland!" You stand up straight, "Finally the time has come for us to put our military strength at practice! This time I seek no deterrence but destruction."

"I am afraid that is a bit...problematic, Sir." Says the Army General, who steps in after Saperovski, "We don't have proper carriers to deliver our nuclear weapons. In the last decade we have diverted all of national industry to the production of the bomb itself but forgot to develop a matching model of the missile for it. And if we put the bomb on our bombers, they will be shattered by Russian AAs."

"No, this cannot be true... Antonov, is this our doomsday coming?" You shrink into a pile of pain in the armchair.

"Sir, the Chinese propose that if we can defuse our nuclear bombs or submit to the IAEA inspectors, they will try to mediate between the Russians and us." Saperovski says.

"Give my precious baby to the IAEA? No way! That's basically submitting the fruits of our decade's efforts to the disgusting Americans! It's my nuclear weapon, MY PRECIOUS!" You almost went hysterical. However, facing the sanctions and the tremendous military pressures, you can't just start an all-out conflict.

"...even if it is destined for us to have no nuclear strength, I would still like to see it defused by our own hands rather than those IAEA monkeys."

"That is also very difficult for us to operate." Yadernikov says behind you, "Our detonation device on the bomb is rather... let's say, primitive. So to remove them should be easy. But the real problem lies behind."

He turns himself towards you and says, "An atomic bomb is very different from an ordinary mine or a cannon shell. The stuff we crammed in it is highly radioactive, and it will take thousands of years to wait for them to decay into lighter elements. And probably you think we can just bury them or throw them into the ocean, which is also impossible for your country. Because firstly, your country doesn't have enough land or coast and secondly, it is not very environmental-friendly, which I concern the most."

"In the name of the great Virgin Mary, what should we do then?" You almost cry out.

"Perhaps there is still one way out." A hoarse voice rings from the corner. It is the mysterious Prof. X.

"Back in the 1990s, when the Soviet Union collapsed, the Russians, who were in despair and blind zeal for capitalism, offered some of their nuclear weapons to their old enemy, the Americans. According to their disarmament agreement, the Yankees would use the nuclear materials in them to supply their domestic nuclear powerplants and to subsidize the Russians, which is known as the Megatons for Megawatts Program. Although the Russians never had the money as they were promised, this proposal did greatly improve the bilateral relations

between them. Maybe we can contact the Americans. I know some from a company in New Mexico called Pantex, which is the official contract with the US Department of Energy. They are the professionals to build and defuse nuclear weapons for the USA. We can ask them to lobby the government and work as a private enterprise to handle your precious."

"Oh, my goodness..." Facing all of your consultants, you feel an unprecedented pressure imposed on your shoulders.

What will you do to your precious, my Princeps?

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# L'éducation des enfants réfugiés Rohingyas

Wang Chun

## 梗概

自 2017 年罗兴亚难民危机以来，大批罗兴亚人逃往孟加拉国、马来西亚等周边国家，其中 60% 以上是儿童。教育对于居住在难民营的罗兴亚儿童的生存、生活都有着重要的意义。本文将从罗兴亚难民儿童教育问题成因、其面临的困境以及有待改进的举措三方面进行简要分析，为罗兴亚儿童教育现状的改善寻求更多可能。

## I. Causes de la crise des réfugiés Rohingyas

La crise des réfugiés Rohingyas a une longue histoire et les Rohingyas ont longtemps souffert de discrimination et de persécution au Myanmar. Après l'indépendance du Myanmar en 1948, les Rohingyas avaient l'intention de se séparer du Myanmar et ont lancé un djihad, ce qui a affecté un grand nombre de civils de l'État d'Arakan (une subdivision administrative du Myanmar). La loi décrétée en 1982 a déchu les Rohingyas

de leur nationalité et a nié leurs droits politiques sous prétexte que « la nationalité n'est accordée qu'aux personnes sur le territoire du Myanmar avant l'invasion britannique de 1823 ». La Révolte de l'État d'Arakan en 2012 a suscité une vive inquiétude de la part des Nations Unies et de l'opinion publique internationale. Au fil des ans, les Rohingyas et le gouvernement birman ont eu de fréquents conflits et les Rohingyas ont continué de fuir. Jusqu'en août 2017, l'armée birmane a adopté une « grande contre-attaque » contre les offensives prévues des groupes armés Rohingyas et a lancé la « grande purge » contre les Rohingyas au moyen de tueries, de bombardements et d'incendies criminels. Pendant cette période, un grand nombre de civils Rohingyas ont été arrêtés, torturés, expulsés ou tués violemment. Près de 536 000 Musulmans Rohingyas dont deux tiers étaient des enfants, ont fui vers le Bangladesh, la Malaisie ou l'Indonésie et les autres pays voisins en deux mois, entraînant la crise des réfugiés de Myanmar 2017.<sup>1</sup>

<sup>1</sup> Reuters, 2017, Starved out of Myanmar: hunger drives thousands more Rohingya to flee. [En ligne] disponible sur : <<https://www.theguardian.com/global-development/2017/oct/16/severe-lack-of-food-drives-thousands-more-rohingya-into-bangladesh-myanmar>>. (Consulté le 7, mars, 2020)

## II. Dilemme éducatif pour les enfants rohingyas

Les Rohingyas fuyant le Myanmar traversent la frontière pour se rendre dans le district de Cox's Bazar, dans le sud du Bangladesh. Entre 1 200 et 1 800 enfants franchissent la frontière chaque jour, ils représentent près de 60 % des derniers arrivants. Il y a des camps de réfugiés dans le district de Cox's Bazar. La plupart des Rohingyas y vivent, leurs refuges provisoires sont toujours à l'étroit, les enfants n'ont presque aucune possibilité d'avoir accès à l'éducation et ne savent pas quand sera-t-il possible de retourner aux origines. L'UNICEF a prévu qu'un demi-million d'enfants rohingyas à Cox's Bazar sont exposés à la frustration et au désespoir, et sont de plus en plus inquiets pour leur avenir. Les camps de réfugiés ne peuvent garantir que leur vie de base, de sorte que les enfants réfugiés rohingyas effectuent souvent des travaux manuels simples afin de soulager la pression financière de leur famille. Cette situation les enlève le temps aux études. La majorité des enfants rohingyas n'a ni identité légale ni citoyenneté au Myanmar, quant aux nés au Bangladesh, ils ne sont pas non plus en mesure d'enregistrer leur naissance. Ils n'ont donc ni d'identité légale ni statut de réfugié. Les enfants rohingyas restaient une minorité sans statut, jusqu'à ce qu'ils soient autorisés à retourner au Myanmar. Cela rend difficile la scolarisation formelle,<sup>2</sup> mais ils ont un besoin urgent de compétences pour être plus concurrentiel sur le marché du travail. Les filles sont davantage les plus susceptibles en raison d'être astreintes aux mariages et aux maternités précoces. Ainsi sont-elles toujours privées du droit à l'éducation.

Nous devons attacher de l'importance à la grande signification de l'éducation pour la survie et la vie des enfants réfugiés. L'édu-

cation peut les aider à passer un mauvais quart d'heure pour le moment et maîtriser une compétence pour gagner leur vie. Lorsque les conditions leur permettent de rentrer chez eux, ils peuvent contribuer de manière constructive à la reconstruction de leur communauté.

Des organisations internationales de défense des droits humains, comme UNICEF, UNHCR, Amnesty International, etc., ont déjà fait beaucoup d'efforts pour que les enfants rohingyas vivant dans des camps de réfugiés au Bangladesh comptant à peu près 500 000, puissent bénéficier de leur droit à une éducation de qualité. Après deux années scolaires perdues, les enfants rohingyas sont enfin capables d'avoir accès à l'éducation. Le gouvernement du Bangladesh a annoncé en janvier qu'il les offrirait des programmes d'enseignement et de formation professionnelle. Selon le projet, les enfants rohingyas suivront des cours conformément au programme scolaire du Myanmar jusqu'à l'âge de 14 ans, et les enfants ayant plus de 14 ans recevront de formations professionnelles.<sup>3</sup>

## III. Problèmes à améliorer

Selon les données de l'UNICEF, l'aide à l'éducation ne représente que moins de 2% de l'ensemble de l'aide humanitaire. L'aide financière en est un élément très important. Au tout début de la crise des réfugiés rohingyas, le fonds «Educate Cannot Wait» a fait don de 3 millions de dollars pour la mise en place de services d'éducation d'urgence dans les camps de réfugiés rohingyas, et en 2018, il a fait don de 12 millions de dollars supplémentaires. La répartition et l'utilisation raisonnables des fonds existants est le problème de première importance à l'heure actuelle. L'utilisation des fonds devrait viser principalement aux deux aspects suivants :

2 ONU Info, 2019, L'UNICEF s'inquiète pour l'avenir des enfants rohingyas réfugiés au Bangladesh. [En ligne] disponible sur : < <https://news.un.org/fr/story/2019/02/1037402> >. (Consulté le 8, mars, 2020)

3 Amnesty International, 2020, Bangladesh. Les enfants rohingyas obtiennent l'accès à l'éducation. [En ligne] disponible sur : < <https://www.amnesty.org/fr/latest/news/2020/01/bangladesh-rohingya-children-get-access-to-education/> >. (Consulté le 10, mars, 2020)

Premièrement, ce sont les services d'éducation pour les élèves. Pour les enfants rohingyas fuyant vers la Malaisie, les 120 centres d'éducation informelles sont les seuls endroits pour eux de recevoir une éducation. Cependant, comme la plupart d'entre eux sont gérés par des communautés de réfugiés et des organisations religieuses avec l'aide du HCR, ils sont souvent confrontés à des problèmes tels que des difficultés financières, une surcharge de personnel et un manque de ressources pédagogiques. Un soutien financier stable peut assurer un enseignement consistant aux enfants au lieu d'abandonner leurs études en raison des frais de scolarité, tout en fournissant d'autres supports essentiels aux enfants, telles que la nourriture, l'eau potable, les soins médicaux, etc..

Deuxièmement, c'est la formation des enseignants. A l'aide du programme proposé par le gouvernement du Bangladesh, l'éducation des enfants a quasiment été assuré, mais la pénurie de ressources pédagogiques est un problème auquel il faut faire face lors de la mise en œuvre du projet. Étant donné que l'enseignement pour enfants rohingyas est basé sur le programme éducatif du Myanmar, un groupe d'enseignants qualifiés qui en connaissent le contenu pédagogique est nécessaire. Pour résoudre ce problème, des enseignants peuvent être sélectionnés parmi les réfugiés rohingyas. Il convient de leur fournir une formation professionnelle en vue d'assurer une éducation de qualité et de garantir un environnement d'apprentissage sûr ainsi qu'un soutien psychologique aux enfants et aux adolescents.

## Los factores que afectan el avance de la economía española

Chang Jianing

### 梗概

众所周知，西班牙是一个老牌资本主义国家，曾经在世界范围内有着自己的势力范围。然而，如今西班牙却已逐步被超越，栖身资本主义国家“第二梯队”。其中在经济方面的退步更加明显。本篇旨在从经济角度分析西班牙经济退步的原因。

Desde 1959 hasta 1973, fue la época de oro del desarrollo económico en la historia moderna de España. Entre los catorce años el PIB alcanzó 5 veces y logró una velocidad de crecimiento de 7.6% al año. El producto industrial creció 3.4 veces y la tasa de promedio de crecimiento anual fue 9.3%. La velocidad del crecimiento superó la mayoría de los países europeos y fue la segunda en el mundo capitalista, solo inferior a Japón. El resultado del rápido avance económico hizo que España pasara de un país de agrícola subdesarrollado a un país industrial desar-

rollado y también lograra el apodo de la flor del milagro económico de Europa.

Sin embargo, debido a la intervención excesiva del ayuntamiento y la rigidez del mercado estructural, el autoajuste del sistema mercantil se veía afectada. En aquel entonces el ayuntamiento adoptó la reforma económica de separar la economía nacional del riesgo económico internacional. O sea, esta reforma aprovechó las maneras de estimular la demanda nacional y reprimir la subida del precio de petróleo y similares hechos. Esta reforma también causó el resultado directo del empeoramiento brusco de balanza de pagos. Tras la muerte de Franco, en una situación política más agitada, el ayuntamiento adoptó la manera de subir el salario con una amplitud más avanzada que la de inflación y eso resultó que la peseta desvalorizó un 20%.

Al principio de los ochenta del siglo pasado, España empezó a actualizar las reformas de reducción, ajuste e innovación. Adoptó una serie de tratamiento de liberalización. Con la oportunidad de ingresar en la Comunidad Europea, España experimentó un apogeo en su proceso del desarrollo económico. Al principio de los noventa, debido a la aparición del sobrecalentamiento económico, la velocidad se vio obligado a menguar y gradualmente se ha iniciado el retraso. Desde 1995, bajo la función del control macroeconómico del ayuntamiento, la economía ha logrado la recuperación y ha iniciado la subida. A pesar de que España se coloca ahora el quinto puesto en economía en Europa. No obstante, todavía se puede descubrir la influencia traída por la crisis financiera internacional y la crisis de la deuda europea. En este texto vamos a investigar los factores que afectan el avance de la economía española.

Lo primero que mencionamos es la grave dependencia del extranjero. Tenemos que reconocer que su base económica fue débil. Con el rápido desarrollo de producción industrial y la tecnología, debido a que la estructura de recurso energético había tenido un cambio espectacular, la tendencia de que el petróleo sustituiría el carbón fue cada vez más notable. Sin embargo, España era un país que carecía del recurso de petróleo, por eso necesitaba la importación para satisfacerse. Con una demanda cada vez más avanzada y la subida del precio del petróleo, el puesto que ocupaba la porción de importación era mucho mayor que antes. No es difícil deducir que la carga pesada del petróleo hizo impedir el progreso económico. Al revés, el recurso carbono era abundante, pero el ayuntamiento no prestó suficiente atención a esta parte. Pensaban que el recurso carbono se relacionaban con el retraso y de esta manera el recurso carbono no fue aprovechado de una manera apropiada. Siguiendo con la inversión extranjera, no cabe duda de que promovía el progreso de la economía española, pero debido a que al ayuntamiento le importó la libre inversión y no aplicó una restricción

necesaria e incluso permitía a que unos inversores gozaran de privilegio, resultó a que muchos sectores industriales importantes fueron controlados realmente por el extranjero. Hoy en día, en las 500 corporaciones más grandes de España, 40% de ellas han obtenido la inversión extranjera y son equipadas de tecnología avanzada y el producto de ellas tiene más competitividad en el mercado no solo nacional sino también internacional. La 98% de las otras empresas de escala mediana o pequeña no pueden tener el espacio merecido para progresar. Desde el fenómeno superficial, la inversión extranjera no impuso una condición política anexa. En realidad, esta influencia se expresó en las políticas económicas e incluso la interna y la diplomática.

De lo que mencionamos de arriba, España está en un estado dependiente del extranjero. Los economistas creen que en la economía de España todavía se observa el carácter de colonización.

En segundo lugar, en lo que vamos a enfocar la atención es la distribución industrial y la diferencia entre distintas regiones. La adopción de la política de tomar en cuenta el progreso de industria y menospreciar el de agricultura hizo que la diferencia entre diferentes regiones se expandió. Durante el proceso del desarrollo rápido, aunque el ayuntamiento dijo que promovería el progreso de agrícola, sin embargo, una gran parte de inversión que se planteó en la esfera de la agricultura se dedicó finalmente a la industria. La inversión de agricultura solo ocupó el 6% de la total. El ayuntamiento siempre bajaba el precio de los productos de agricultura para resolver las dificultades que aparecieron en la parte de industria. Aplicó el enfoque de usar la agricultura a compensar la industria y al mismo tiempo reducir el préstamo de agricultura. La tierra era altamente concentrada, menos de un 2% de terateniente ocupaba el 60% de tierra. Ellos se dedicaron a la industria y la inversión financiera y no querían prestar suficiente dinero a la tierra que ocupaban y por eso la tierra carecía de cuidar. Numerosos campesinos



pequeños no tenían un poder económico muy desarrollado y fue imposible adoptar tecnología muy avanzada en la labranza. Por eso el nivel mecánico de agricultura era muy subdesarrollado. El progreso también era muy lento. Durante los 14 años del progreso, el incremento industrial anual fue 9.3%, al revés, el de agrícola fue menos de 3%.

El progreso de agrícola fue retrasado, con la usura de intermediarios, resultó que la condición de la vida campesina era mal. El salario intermedio de los campesinos solo alcanzó un 40% del de los obreros. La diferencia era cada vez más expandida. La mayoría de los campesinos, especialmente los adolescentes salieron del campo y entraron en la ciudad. Y el círculo vicioso dejó que la agricultura fuera cada vez más frágil.

En la segunda mitad de 1974, España estaba implicado en la crisis económica del mundo capitalista y todavía no logró librarse. Debido a que la base industrial era muy frágil y la tecnología que dotaba era subdesarrollada, la competitividad de los productos españoles no era muy alta. Con el limitado poder de absorción del mercado nacional, muchos sectores industriales se vieron obligado a disminuir la producción, y la tasa de funcionamiento era insuficiente. Por ejemplo, la construcción naval, en los años recientes la tasa de utilización de los aparatos sólo mantuvo un 60% aproximadamente. La inflación fue descontrolada y los desempleados fueron cada vez más. En 1980 los desocupados casi ocuparon el 12% de la cantidad de la mano de obra y se convirtió en el país que tenía la tasa más alta de paro en la Europa occidental. La crisis económica trajo muchos severos problemas sociales. Fue uno de los factores importantes de la agitación de sociedad.

Al final, ¿Qué experiencia podemos aprender del ejemplo de España? Lo que valorizamos es su espíritu emprendedor. Los políticos no solo han planteado sobre el futuro de su país, sino han aplicado las reformas para alcanzar el objetivo. No obstante, con la escasa experiencia de reformar no puede controlar la velocidad del progreso ni adoptar una

resolución con mucha eficacia. Debido a la carencia de recursos naturales, los políticos no pueden valerse de sí mismos sino han de procurar la ayuda extranjera.

Sin embargo, el modo de desarrollarse decide al mismo tiempo la situación de que es controlado por las partes externas en muchas esferas tales como la económica y la política. Los políticos, que estaban ansiosos por el éxito, no tardaron suficiente tiempo en reflexionar el resultado traído por la crisis económica sino publicaron las políticas similares tratando de salvar España del riesgo.

No cabe pregunta de que las políticas son significativas para el desarrollo del país, pero eso se basa en el principio de conveniencia. Para tomar la decisión de una política, la situación nacional es el primer motivo que merece la atención. Los factores de recurso, de cultura, de aspecto social son el material valioso para la investigación ante publicar una política.

El segundo factor que necesita nuestra reflexión es la distribución de diferentes factores nacionales. El desbalance de entre el factor de agrícola y el industrial resulta decididamente el aborto de desarrollo de España. El problema del progreso nacional se debe algunas veces a la distribución desbalanceada porque eso significa la diferente distribución de recursos. Diferentes factores pueden traer el beneficio económico tarde o temprano. De esta manera, en cuanto tengamos desafíos de economía, podemos adjuntar la distribución a ver si pueda mitigar la consecuencia traída por el desastre.

# 浅析我国废旧塑料进口政策的变动

马璟程

## 梗概

我国在很长时间内一直是全球废旧塑料的最大进口国。在 2016 年，我国进口了全世界超过 56% 的废旧塑料。从上世纪八、九十年代开始进口废旧塑料，到 2017 年颁布“洋垃圾”禁令、正式停止进口废旧塑料，我国的废旧塑料进口政策总体经历了三次变动。本文将简要说明这三次变化各自的原因及影响，并探寻这三次变动对未来全球废旧塑料回收系统规划可能带来的启示。

## 一、早期（上世纪八、九十年代-2011 年）：开始进口废旧塑料，相关规章制度几乎为空白

上世纪八、九十年代，我国开始逐步批准进口废旧塑料。随着进口废旧塑料数量的快速增长，我国在很短时间内就成为了全球废旧塑料最大进口国。2011 年，我国进口废旧塑料达到 838 万吨<sup>1</sup>。

我国进口废旧塑料主要是为缓解国内塑料供需长期不平衡的状况。伴随我国经济社会的发展，国内对塑料制品的需求快速上升；尽管我国的塑料产能位居世界前列，但仍难以满足国内庞大的市场需求。2010 年，我国初级形态塑料进口依存度已经高达 44%<sup>2</sup>，大量进口塑料成为满足我国国内市场需求的选择；而相对于进口成品塑料，进口废旧塑料存在更大的利润空间：一吨废旧塑料的进口价约为 200 美元，经分拣和一定程度的处理后便可以再次使用，加工后的废旧塑料价值可达到每吨 850 美元左右<sup>3</sup>，仍低于大部分直接生产的成品塑料的成本，质量却可与大多数直接生产的成品塑料相媲美。庞大的中国市场为加工后的废旧塑料带来了足够

大的使用量，进而为相关企业带来丰厚利润；此外，由于很多国内塑料生产企业在生产过程中大量使用廉价活性剂，因此国内产生的废旧塑料的品质往往低于进口废旧塑料。这导致很多国内的塑料制品制造商，如一些地区的农用地膜生产商更倾向使用进口废旧塑料加工而成的塑料原料<sup>4</sup>。

进口废旧塑料为我国带来了诸多益处。首先，进口废旧塑料可以为我国节约石油资源。石油是塑料生产所需的重要原料。与直接生产成品塑料相比，进口废旧塑料并将其加工为成品塑料可减少塑料生产过程中的石油用量。因此，进口废旧塑料可以缓解国内石油进口压力，改善我国长期依赖石油进口的现状（2017 年，我国石油进口依存度超过 65%<sup>5</sup>）此外，进口废旧塑料可以带动国内就业。废旧塑料需要经过分类、破碎、造粒、改性等环节才能变成塑料颗粒。在此过程中，企业所创造的就业岗位数量众多。特别是通常由人力进行且不需要过多技巧的分类环节，该环节为我国许多知识水平较低的低收入群体提供了工作岗位，使其获得稳定的收入来源；同时，进口废旧塑料大幅降低了塑料行业的原料成本，相关企业的盈利水平得到提高。这为相关企业扩大生产规模、加大技术投入、提高在行业中的国际竞争力提供了有效的保障。

但进口废旧塑料也为我国带来了许多环境和民生问题。由于缺少管理废旧塑料进口和加工企业的规章制度，我国废旧塑料行业的准入门槛过低，很多废旧塑料企业的生产与处理方式存在问题，如工人缺乏防护措施、排放的有毒物质处理不当等。这些存在问题的生产与处理方式对我国的生态多样性和人民健康造成严重危害，如加工进口废旧塑料的废水直接排入河流造成水污染、焚烧废旧塑料产生的废气会提高吸入者的患癌概率、

1 周君：《对我国可再生废塑料的进口及回收利用研究》，硕士论文，对外经济贸易大学国际贸易专业，2017 年 5 月，第 16 页。

2 《我国塑料原料进口依存度高达 44%》，中国化工制造网，2010 年 3 月 22 日，<http://www.chemmade.com/news/detail-00-2864.html>

3 孙彦：《洋垃圾禁令：堵截发达国家“垃圾回收之路”》，《法律与生活》，2019 年第 11 期，第 56 页。

4 周君：《对我国可再生废塑料的进口及回收利用研究》，硕士论文，对外经济贸易大学国际贸易专业，2017 年 5 月，第 19 页。

5 《我国原油进口依存度已突破 65% 战略储备有待提速》，中国经济网，2017 年 5 月 8 日，[http://www.ce.cn/cysc/ny/gdxw/201705/08/t20170508\\_22598019.shtml](http://www.ce.cn/cysc/ny/gdxw/201705/08/t20170508_22598019.shtml)

废旧塑料携带的病菌导致加工人员感染等。除了会带来环境和民生问题外，错误的生产与处理方式也使得进口废旧塑料的经济价值无法得到完全发挥。

## 二、中期（2011-2017年）：政府采取手段规范废旧塑料的进口

由于近年来废旧塑料带来的环境与民生问题日益严重，我国开始着手对废旧塑料的进口及加工环节进行规范。2011年，我国颁布了《进口可用作原料的固体废物环境保护管理规定》和《固体废物进口管理办法》。这两份文件明确规定了固体废物进口许可证的申请和审批要求，为废旧塑料进口审批制度的制定提供了政策依据。

此后，我国出台的废旧塑料管理规定开始更具有针对性。国务院环保部、发展与改革委员会、商务部于2012年联合发布了《废塑料加工利用污染防治管理规定》，规定明确了相关企业在废旧塑料加工环节中的责任和义务，如禁止废塑料进口凭证的转让、发现不符合进口标准的废旧塑料应向相关部门报告等。之后，环保部于2013年颁布了《进口废塑料环境保护管理规定》，该规定针对相关企业应如何采取环境保护措施提出了具体要求，明确了有关部门对相关企业的监管责任，并针对相关企业的违规行为提出了相应惩罚措施。

除政府规定外，我国在行动层面也加大了对“洋垃圾”的打击力度。2013年2月1日到11月30日，中国海关开展“绿篱”专项行动，以打击“洋垃圾”走私。在此期间，大连、杭州、宁波等15个关区先后查获55起案件，查证各类走私废物80余万吨。<sup>6</sup>

通过政府采取的以上措施，我国废旧塑料进口与加工市场的运行变得更加合法化、程序化。我国进口废旧塑料的数量减少、质量提升，一大批不具资质的再生企业被查处或者倒闭。这使得我国废旧塑料相关行业总体的规范程度和技术水平大幅提高，一定程度上减少了进口废弃塑料带来的环境污染。

## 三、后期：停止进口废旧塑料（2017年至今）

2017年7月30日，我国发布了《禁止洋垃圾入境推进固体废物进口管理制度改革实施方案》，正式通知世界贸易组织，将于2018年初停止进口包括废塑料、未分类废纸、废纺织原料和钒渣在内的24种“洋垃圾”。

我国停止进口废旧塑料主要出于以下原因：首先，随着经济的发展与科技的进步，我国的塑料生产能力大幅提高。根据国家统计局数据，1999年我国初级形态塑料制品产量仅为871.10万吨，而2018年我国初级形态塑料的产量已经达到8558.02万吨，居世界首位，如此庞大的塑料产量使得我国不再需要进口废旧塑料来满足本国的塑料需求；同时，近年来我国民众的环保意识逐渐提高，开始意识到进口废旧塑料对环境与健康带来的严重危害；此外，随着我国近年大力推进脱贫工程，大量低收入群体能够通过其他途径获得稳定的收入，不再需要利用废旧塑料分类来为他们继续提供就业；最后，当前仍没有将废旧塑料高效、无污染进行二次利用的商业化技术，这意味着我国无法在尽可能发挥废旧塑料全部经济价值的同时，最大程度地杜绝废旧塑料二次加工所带来的环境污染。

我国停止进口废旧塑料的影响则是多方面的：

对中国自身而言，停止进口废旧塑料有利于减少污染、保护环境。但本国塑料生产加工企业的原料成本将上升，这将促使我国国内塑料企业加大研发力度，提高企业投入产出比，一些生产技术落后的塑料生产企业将被淘汰。

对其他国家而言，我国停止进口废旧塑料则意味着全球废旧塑料回收体系的巨大变动。受“洋垃圾”禁令影响，废旧塑料出口国的废旧塑料处理系统面临重大压力。以美国为例，根据美国废物回收工业协会的统计，2017年，美国49%的出口废旧塑料被出口到我国。我国“洋垃圾”禁令的出台将令美国不能继续向我国出口废旧塑料，这使得美国废旧塑料处理系统压力骤增。美国废物回收工业协会高级主管阿迪娜·阿德勒2018年1月在接受媒体采访时称“中国此次颁布

6 《中国废塑料产业进入“后绿篱时代”》，中国经济网，2014年4月23日，[http://www.ce.cn/cysc/ny/gdxw/201404/23/t20140423\\_2706875.shtml?from=singlemessage&isappinstalled=0](http://www.ce.cn/cysc/ny/gdxw/201404/23/t20140423_2706875.shtml?from=singlemessage&isappinstalled=0)

的标准是空前的，要在半年的时间内适应这个变化，对于美国的企业而言几乎不可能实现”<sup>7</sup>。由于无法处理突如其来且数量庞大的废旧塑料，美国的一些垃圾加工厂已经停止接收此类废弃物；废旧塑料出口国为解燃眉之急，选择将废旧塑料出口到其他国家（如东南亚国家）。这些国家在短期内获取了大量经济利益，但由于无法在短时间内安全回收如此大规模的废旧塑料，很多废旧塑料在这些国家被直接填埋或焚烧，造成严重的环境污染。因此，很多废旧塑料进口国效仿我国，停止进口废旧塑料；同时，我国停止进口废塑料促使很多国家采取措施来发展本国的塑料回收产业，如加快可循环利用塑料的研发速度、限制塑料的使用与流通、加大环保宣传力度、增加塑料回收领域的基建投资等。

综上，我国废旧塑料进口政策的一系列变动表明：一国的废旧塑料进口政策受其经济社会发展水平影响。通常来说，一国的经济社会发展水平越高，进口废旧塑料的意愿就越小。这意味着，如果仍没有将废旧塑料高效、无污染进行二次利用的商业化技术，随着世界各国特别是发展中国家的经济社会发展，各国进口废旧塑料并进行二次加工的意愿将越来越低。因此，对于废旧塑料出口国而言，一味寻求更换废旧塑料出口对象并非良策，而开发相关技术、完善本国废旧塑料再回收体系才是解决废旧塑料处理问题的长久之计。

## 早期阿拉伯民族运动和泛阿拉伯主义思想的源起

吕行果

### 梗概

泛阿拉伯主义思想是阿拉伯世界政治和外交关系中不可忽视的一股力量，然而自上世纪 80 年代以来，泛阿拉伯主义在实践层面上就少有进展。当今阿拉伯世界的分裂局面，同阿拉伯人的历史和近代阿拉伯民族运动的迷思是不无关系的。本文将通过回顾早期阿拉伯民族运动和民族思想的演进，为泛阿思想的成败提供历史视角的解释。

为了“加强和巩固所有阿拉伯国家之间的纽带并增进全阿拉伯世界的福祉”，1944 年 10 月 7 日，五个阿拉伯国家在埃及的亚历山大港签署了一份议定书。这份由时任埃及首相纳哈斯帕夏（Mustafa al-Nahas Pasha）主导起草的《亚历山大议定书》决定了战后阿拉伯国家联合的基本方向——即以主权国家联盟的形式展开合作。根据《议定书》的规定，阿拉伯联盟的任务是：监督缔约国贯彻执行协议条款；举行定期会议以加强缔约国之间的关系；协调缔约国的政治路线以确保彼此间的合作，保护各自的独立

和主权，以适当的方式反对一切侵略行为；全面管理阿拉伯国家的事务与利益。一年后签署的《阿拉伯联盟宪章》标志着这个史无前例的阿拉伯世界的合作组织正式建立，在该宪章中《亚历山大议定书》的精神得到了延续：“阿拉伯联盟由签署本条约的独立的阿拉伯国家组成。”阿盟的成立是泛阿拉伯主义运动里程碑式的一步，但从此以后阿拉伯世界就在联合之路上裹足不前。战后数十年的时间里，阿盟的成员国由最初的 7 个扩展到最多时的 22 个，但到目前为止，阿拉伯世界似乎不是更团结而是更加分裂了。在纳赛尔时期，埃及曾一度高举“20 世纪的萨拉丁”的旗号，为泛阿拉伯主义奔走呼号，甚至一度开启了建立“阿拉伯联合共和国”（United Arab Republic, UAR）的尝试。然而，在萨达特于戴维营同以色列媾和后，曾作为阿拉伯世界之领导的埃及便遭到普遍孤立，无人能再次扛起泛阿拉伯主义的大旗。此后，虽然泛阿拉伯主义并未从中东政坛上彻底消失，但是阿拉伯国家的分道扬镳已是不可否认的事实。泛阿拉伯主义究竟是一种深植于阿拉伯人心中的强烈认同，或仅仅是一句政治口号、一种宣传手段？本文旨在通过回溯

7 《美国“垃圾库存”消化难》，新华网，2019 年 10 月 15 日，[http://www.xinhuanet.com/globe/2019-10/15/c\\_138470430.htm](http://www.xinhuanet.com/globe/2019-10/15/c_138470430.htm)

阿拉伯民族运动和泛阿拉伯主义思想早期发展的历史脉络，试图为看待现当代阿拉伯世界的民族问题提供一个视角。

“阿拉伯”并非一个可以按照简单的标准进行清晰界定的概念。首先在血缘上它就不是一个单一的族裔。人们在使用“阿拉伯人”这个词语的时候，时常把一些同穆罕默德有着截然不同祖先的群体一股脑纳入进来，例如柏柏尔人、库尔德人<sup>1</sup>；甚至一些来自撒哈拉以南的黑色人种也被视为是阿拉伯人的一部分，例如埃及的萨达特总统常被认为有撒哈拉以南的黑色人种的血统。同样，在语言或宗教上也难以严格界定一个人是否是一个“阿拉伯人”。按照大英百科全书的描述：“在伊斯兰教和阿拉伯语传播之前，阿拉伯人指的是阿拉伯半岛上大部分从事游牧活动的闪族居民。在现代，它用于描述包括生活在从非洲的大西洋沿岸的毛里塔尼亚到伊朗西南部广大地区的讲阿拉伯语的民族，包括北非的整个马格里布地区、埃及和苏丹、阿拉伯半岛、叙利亚和伊拉克。”<sup>2</sup>在漫长的历史中，“阿拉伯”这个内涵模糊的词语并没有一个不容置疑的权威解释，但是单从地域范围上来看，它可以指代在 7、8 世纪间曾囊括如今西亚和北非的绝大多数地方、疆域从大西洋直到印度河的庞大帝国；相比于今日我们对于阿拉伯世界的地理界定，它最大的不同在于西班牙的南部、被称为安达卢西亚的地区当时也属于阿拉伯政治和文化圈。起初，阿拉伯人只是生活在阿拉伯半岛上的闪族游牧部落的一般称谓。但是当穆罕默德创立伊斯兰教之后，阿拉伯半岛在政治和意识形态上都实现了统一，阿拉伯人开始走向对外扩张的道路。在阿拉伯帝国时期，伊斯兰教和阿拉伯语传播到了被征服的广大地区，并在帝国的疆域内形成了一定程度的文化和身份认同，富庶的埃及、叙利亚和新月沃地甚至取代阿拉伯半岛，成为阿拉伯文明的新中心。但是，对于大多数远离权力中心的地区来说，血缘上的阿拉伯人身份仍然只属于极少数的统治精英。阿巴斯王朝衰亡后，阿拉伯人永远地失去了政治上的统一状态：作为政教合一的最高领袖的哈里发的权威日益衰弱，以苏丹、埃米尔、贝伊等为称号的世俗统治者成为支配性的力量；

同时，伊斯兰教内部的教派冲突也加剧了政治上的分裂状态。

到了 19 世纪，当世界范围内的许多民族都已经走上建立民族国家或者为争取民族独立而斗争的道路时，泛阿拉伯主义却缺乏最起码的根基——当时绝大多数阿拉伯人居住的地区都处于奥斯曼帝国或直接或间接的控制之下。奥斯曼苏丹以哈里发的身份统治着大多数逊尼派穆斯林，但是苏丹本身来自突厥族裔，阿拉伯人只是作为这个庞大的多民族帝国的其中一员（而且是不那么重要的一员）。在阿拉伯世界的不同地区，奥斯曼帝国实行的统治形式往往有很大不同，但是总的来说“高门”<sup>3</sup>倾向于同阿拉伯本地经营合作，赋予他们广泛的自治权利。例如在埃及的马穆鲁克王朝覆灭后，原来的马穆鲁克贵族仍然得以盘踞在埃及，他们的权势甚至时常高于中央政府派驻埃及的总督和其他官员。然而，很长一段时间内，阿拉伯贵族依旧被排除在政府的高级职位之外，直到 18 世纪，地方的显贵们升入了奥斯曼行省行政体系的最高级，并被授予了“帕夏”称号。在阿拉伯世界，地方领袖的实力更加壮大，开始挑战伊斯坦布尔的权威；<sup>4</sup>与此同时，奥斯曼帝国自身的扩张已经达到了极限，在俄罗斯、奥地利等崛起的欧洲强国的挑战下国势欲衰。因此，18、19 世纪爆发的一系列由阿拉伯本地精英领导的反抗奥斯曼帝国统治的尝试，几乎一度将奥斯曼的势力完全排除于阿拉伯世界之外。其中最具有影响力的就是在内志的沙特家族领导下的瓦哈比派起义和埃及总督穆罕默德·阿里领导的旨在脱离奥斯曼控制的尝试。但是这一类的反抗并不能被冠以民族独立战争的标签，因为它们虽然在地域上可以被简单地看作阿拉伯人与土耳其人的冲突，但是冲突的双方都完全没有对民族独立的自觉：瓦哈比运动的意识形态源泉并非是阿拉伯民族主义，而是部分阿拉伯人对于其时伊斯兰世界中盛行的偶像崇拜、神秘主义等“异端”行为的不满；而统治埃及直到第二次世界大战之后的穆罕默德·阿里王朝来自希腊地区，在血缘上与埃及人或阿拉伯人没有任何关系。虽然奥斯曼帝国成功地阻止了阿拉伯人完全从帝国中分离出去，但是也进一步丧失了在这些地区的权威，对

1 甚至这些群体本身的概念也是模糊而难以界定的。

2 Arab | Description, History, & Facts, <https://www.britannica.com/topic/Arab>

3 Sublime Porte 或 High Porte，一般代指奥斯曼帝国时期的中央政府。

4 尤金·罗根：《征服与革命中的阿拉伯人：1516 年至今》（廉超群、李海鹏译），浙江人民出版社 2019 年版。

“高门”心存不满的阿拉伯本地精英仍然掌握着巨大的权力。

19 世纪后半叶，奥斯曼帝国的改革尝试没有能够将自身从危机中解救出来。第十次俄土战争灾难性失败后，在 1878 柏林会议上，奥斯曼的大片领土遭到列强瓜分；与此同时，英法等国的殖民势力开始加速对中东地区的渗透，北非的阿拉伯国家相继脱离了奥斯曼的控制，但随后又落入殖民势力的控制之下。由于传统的伊斯兰教信仰难以维系帝国境内各族裔对帝国的认同，“青年土耳其党”上台后，奥斯曼帝国彻底放弃了建立在逊尼派穆斯林认同上的文化多元主义政策，开始推行“奥斯曼主义”，其实质就是以民族主义为认同建立突厥民族的土耳其国家，这进一步加强了阿拉伯人的离心倾向。与此同时，受到欧洲文明的影响，阿拉伯世界开始越来越多地接收到近代的政治思想，特别是民族主义思想。很多接受了西方教育的阿拉伯知识分子不仅在他们本国的同胞中唤起民族情绪的萌芽，也在欧洲各国争取舆论对于阿拉伯民族运动的同情。1914 年 11 月，奥斯曼帝国加入同盟国阵营参加第一次世界大战。协约国利用了奥斯曼国内阿拉伯民族主义风潮，挑唆和支持阿拉伯民族起义活动。战争之初，英国就安排受它“保护”的埃及行省脱离奥斯曼帝国独立；1916 年，在英国的支持下，汉志地区的哈希姆家族发动了旨在建立一个统一的，独立的阿拉伯国家的大起义。英国当局甚至一度做出了这样的承诺——英国承认下述疆界内阿拉伯国家的独立：北界，自梅尔辛—阿达纳—乌尔法—马尔丁—阿马迪亚，直到波斯边界；东界，从波斯边界南至波斯湾；南界，印度洋（不包括亚丁在内）；西界，沿红海和地中海到梅尔辛。这一次大起义旨在摆脱奥斯曼帝国对于阿拉伯半岛或其他地区阿拉伯本地精英权利的干涉，更是萌生的泛阿拉伯主义思想的鲜明体现。麦加的谢里夫侯赛因·本·阿里 (Hussein bin Ali) 在致信英国驻开罗高级专员麦克马洪 (Henry MacMahon) 时就曾表示：“我的目标就是希望整个亚洲阿拉伯地区实现独立。”<sup>5</sup>然而，在 1916 年的《赛克斯-皮科协定》中，英法秘密地瓜分了奥斯曼帝国的领地；阿拉伯世界被划分为若干个区域，处于战胜国的控制之下。该协议在战后以英法对中东进行委任

统治的方式得以落实。由于英法的出卖，建立统一的阿拉伯国家的第一次尝试失败了；阿拉伯世界被划分为若干个国家，接受英法的委任统治或是接受与英法合作的本地王公的统治。这一次划分基本决定了阿拉伯国家之间的政治边界，至少少有变动。这一时期，成熟的阿拉伯民族思想已经产生并被投入到现实的政治实践当中，希望建立一个统一的阿拉伯国家的泛阿拉伯主义思想也在阿拉伯世界的知识分子和政治精英中传播开来。但是，一战后的失败不仅使阿拉伯独立的理想化为泡影，也对诞生时间不长的泛阿拉伯主义思想造成了沉重的打击——在战胜国划定的边界线内，具体的民族主义和宗教领域的教派分歧正在挑战人们心中抽象的“阿拉伯国”。

两次世界大战期间，阿拉伯民族运动在反对英法的殖民统治的愿望引导下继续蓬勃发展，并诞生了一批更激进的年轻的民族主义者。他们唾弃同殖民主义势力合作、维持君主制的一代民族主义政治家，展现出对革命共和主义的热情。例如，被称为“阿拉伯民族主义的精神之父”的萨提·胡斯里长期在法国、瑞士和比利时接受西方教育，但是他批评一些民族主义者从同情欧洲人的立场转而来一味模仿欧洲一切事物的做法，他说这些“西方派”已经变为反阿拉伯民族的立场上去了。<sup>6</sup>反对西方殖民主义、主张建立统一的阿拉伯国家的思想在阿拉伯世界的青年军官团体中具有相当深远的影响，直接导致了第二次世界大战后埃及、叙利亚等国的政治变动。同时，随着埃及、沙特、伊拉克等国相继获得名义上的独立，阿拉伯世界内部争论的焦点转向独立之后的统一问题，建立统一的“阿拉伯国”被认为是可以实现的蓝图。<sup>7</sup>第二次世界大战的打击使英法的殖民势力更加虚弱，阿拉伯人相信推进阿拉伯世界联合事业更进一步的时机已经到来。但是这时，最有影响力的两个阿拉伯大国——埃及和伊拉克却在领导权的问题上截然对立。1942 年伊拉克首相努里·赛义德 (Nuri al-Said) 向英国和阿拉伯各国发布了“蓝皮书”，提出建立“新月形沃地”联邦的计划，试图以联邦的形式实现统一。<sup>8</sup>但是这一计划遭到埃及、沙特等国的强烈反对，最终化为泡影。埃及首相纳哈斯帕夏随后提出了针锋相对的

5 赵军、陈万里：《阿盟视角下的泛阿拉伯主义政治实践》，《世界民族》，2017 年 01 期，第 31 页。

6 彭树智：《论萨提·胡斯里的泛阿拉伯民族主义》，《西亚非洲》，1992 年 02 期，第 29 页。

7 赵军、陈万里：《阿盟视角下的泛阿拉伯主义政治实践》，《世界民族》，2017 年 01 期，第 32 页。

8 杨增耀：《“大叙利亚计划”的昔与今》，《阿拉伯世界》，1988 年 04 期，第 66 页。

方案，这就是文章开头提到的《亚历山大议定书》，也即是后来阿盟所采取的方案。无疑，在英法的殖民统治之下，对自由、独立的渴望是泛阿拉伯主义思想生存发展的土壤，但是阿拉伯民族运动的领导权仍然掌握在依附于西方的本地贵族手中，他们将阿拉伯民族主义视为为自身牟利的工具而并非真实的迫切需要。尽管在埃及、叙利亚和伊拉克，旧王朝最终被青年军官团体所推翻，但是殖民主义划定的边界已经对阿拉伯各国人们的现实生活和思想观念产生了不可抹杀的影响。泛阿拉伯主义和各国本国的民族主义，已经成为一对现实而不可忽视的对立。

回顾阿拉伯民族运动和泛阿拉伯主义思想发展的基本脉络，我们不难看出，主张聚合阿拉伯世界的泛民族观的思想根基是相当浅薄的。尽管拥有相当深厚的历史和传统文化，阿拉伯人作为独立的民族的意识诞生于并不久远的 19 世纪晚期，而他们甫一摆脱土耳其人的控制就落入英法的殖民统治之下，历史并没有给阿拉伯的民族主义构建提供充足的时间和良好的环境。例如，当一战后侯赛因·本·阿里的儿子费萨尔试图在“大叙利亚”<sup>9</sup> 建立一个泛阿拉伯的政权的时候，战胜国毫

不留情地将他从叙利亚驱逐出去。他本人后来也向英国妥协，接受了伊拉克的王位，放弃了建立“大阿拉伯”的愿望。另外，尽管泛阿拉伯主义深刻影响了阿拉伯人，尤其是少数知识分子的自我认同，但是阿拉伯民族运动的主动权始终掌握在阿拉伯本地精英手中，这使得阿拉伯人始终未能把握争取团结和统一的最佳时机。自埃及的穆罕默德·阿里以来，本地贵族就始终致力于将民族运动限制在获得本国独立的范围之内，他们试图与帝国中央或西方国家达成利益上的平衡，从而争取自己在本国的高度自治权力。他们利用泛阿拉伯主义思想对抗奥斯曼帝国和西方殖民势力，但同时他们却接受英法为阿拉伯国家划定的边界。进入冷战时期，在全世界的反殖民浪潮和中东尖锐的阿以矛盾的推动下，阿拉伯民族运动和泛阿拉伯主义思想经历了又一个高潮，阿盟本身即是这一高潮的产物。但是阿拉伯民族本身的构建任务却面临先天不足的局面，它在联合阿拉伯国家抵御以色列的威胁之时足敷应用，但是对立统一的“阿拉伯国”的目标却难孚众望。在日新月异现代，阿拉伯人还需要经历更多考验。

## 乌克兰危机的“困境”演进与未来

祝文韬

### 梗概

自 2013 年乌克兰危机爆发以来，该国东部地区虽一度爆发了激烈的军事冲突，但很快陷入到“消极冲突”的尴尬困境之中。总体上看，乌克兰局势有从短期“危机”转变为长期“问题”的趋势。笔者借此文试图梳理乌克兰困局演进的关键时间节点，分析其冲突常态化的内在动因和外在推动力，并对乌克兰局势的未来走向提出自己的看法。

### 一、乌克兰危机“问题化”的开端

2013 年末，亚努科维奇领导的乌克兰政府意外宣布中止签署与欧盟的联系国协定，

转而寻求加强俄乌合作。这一举动被乌克兰反对派视作是对国家的背叛，大规模的群众抗议活动随即开始，议会乘势也宣布解除总统亚努科维奇的职务。随着原反对派掌握议会并重启“入欧”进程，传统亲俄的乌克兰东部和南部地区掀起了强烈的分离主义浪潮。克里米亚地区在进行全民公投后宣布并入俄罗斯联邦；东部的顿涅茨克和卢甘斯克两州也纷纷宣布“独立”，其武装组织同乌克兰政府军在顿巴斯地区展开了激烈的交火，危机陡然升级。

在危机背后，我们能看到的是乌克兰国内“亲欧”与“亲俄”两股截然对立的政治力量之间的碰撞。从库奇马到尤先科，从亚努科维奇到波罗申科，你方唱罢我登场，双方围绕着国家最高权力归属展开的争夺从未

<sup>9</sup> 根据叙利亚国民大会决议，“大叙利亚”北至托罗斯山脉、南抵红海，包括今天的叙利亚、约旦、巴勒斯坦和周边的其他一些地区。



停止——政治这架天平时常倾斜但仍在工作。尽管在苏联解体后仓促建立、在 2004 年“橙色革命”<sup>1</sup>后走向完善的“乌克兰式民主”（一种被境内资本寡头和外部势力干涉双重绑架的选举政治）没有立刻“暴死”，但是其维持现状颠簸不破已然勉强，根本无心也无能力处理国内日渐尖锐东西矛盾、族群矛盾。

诚然，危机的发生即是乌克兰内部矛盾的总爆发，也是境外力量围绕乌克兰这一“欧洲十字路口”展开地缘政治博弈的产物。从 2013 年抗议浪潮爆发伊始，就能看见这场危机背后境外力量干预的影子。当乌克兰民众刚刚走上街头表达不满之时，西方的许多政要便为示威活动摇旗助威，声称这将是第二次“橙色革命”，打败亚努科维奇将是乌克兰民主的“胜利”；而俄罗斯则在第一时间力挺亚政府，为其提供了包括天然气优惠在内的大量经济援助，即使在亚努科维奇倒台之后，仍然通过克里米亚和乌东地区的亲俄力量作为代理人，间接表达对新政府的不满。

总的来说，在危机前的国内矛盾仍能通过国内政治体制进行调解，但当天平的平衡被打破、且双方及背后支持者不顾后果地一味增添政治军事砝码时，双方斗争的强度和烈度与先前大为不同。亚努科维奇全面“倒俄”的政策激起了“亲欧”派民众愤怒，反对派和民粹主义者借机发动进攻夺取了国家政权；等到以波罗申科为首的“入欧”派上台并竭力推行激进的去俄罗斯化政策时，乌国家建构的根基被进一步破坏，这使得与俄有天然联系的东部地区离心倾向加剧甚至掀起独立热潮。<sup>2</sup>当激进的主张绕过国家政治建构占据上风时，乌克兰原本就脆弱不堪的政治已然崩溃——不仅无法重新调和矛盾，更成为了不同力量直接碰撞的角斗场。

尽管危机在国内外政治力量的激烈碰撞中爆发，但危机所造成的巨大消耗显然不被各方所乐见。因此鉴于原本的政治天平难以修复，为了及时“止损”，各方会直接投入

更多的政治外交资源进行调解和利益交换，暂时性地重建地区力量的相对平衡即“再造天平”。可以看到的是，无论是《明斯克协定》还是《新明斯克协定》，这些协调各方利益、解决乌东问题的纲领性协定都是 2015 年或之前签订的。

## 二、乌克兰危机“问题化”的发展

然而在 2015 年之后，随着叙利亚内战的发酵和极端组织“伊斯兰国”的崛起，中东局势急转直下，地区内的交火和冲突不断加剧。相比之下，乌克兰危机却在 2015 年之后陷入一种少战也少和的“消极冲突”中。

“少战”是说在两份明斯克协定签署后，乌东地区的交火和冲突频率下降，规模缩小。虽仍有零星交火，但总的来看顿巴斯地区陷入了“冻结状态”：以一条并不平静的双方接触线为界，一侧的乌政府竭力想要在其控制区内重新恢复中央对地方的领导，将其重新纳入国家正常生活之中，而在另一边乌东反对力量对该地区重要城市的控制力也在不断加强，其越来越成为一个实在的“无公认非国家行为体”<sup>3</sup>，并与莫斯科关系日益亲密。

“少和”则是指自 2015 年 2 月以来，有关乌克兰问题的外交调解行动往往无果而终。早在 2015 年 9 月，俄罗斯就曾公开对乌克兰问题三方联络小组工作表示失望，称其没有“在乌克兰政府代表和乌东民间武装控制区代表间建立有效和相互尊重的对话”。原本为有关各方首脑定期增强沟通磋商而设立的“诺曼底峰会”也在 2016 年后中断——乌政府与乌东武装相互指责对方破坏停火协议，而欧盟和俄罗斯也彼此呛声干涉乌克兰内部问题，大有自说自话的意味。

“少和”同时也表现在政治解决乌东问题的进程停滞，双方的不信任感和疏离感不断增强之上。2017 年欧盟各成员国最终批准与乌克兰的联系国协定，乌克兰当局不断切

1 “橙色革命”一般指在 2004 年乌克兰总统大选之后，反对派候选人尤先科及其支持者因不满选举结果而发起的针对前总统库奇马和胜选者前总理亚努科维奇的大规模抗议活动。示威者指责是亚努科维奇背后的俄罗斯干涉了选举并宣称亚努科维奇的获胜是舞弊的结果。迫于强大的反对浪潮，乌克兰在国内外观察员的共同监督下进行了重新选举。最终长期坚持“亲欧”立场的尤先科在重选中获胜，乌克兰政治开始走向了“两营对垒”时代。

2 郝诗楠 张佳威：《论政治转型的“自主模式”和“约束模式”——对埃及与乌克兰的案例比较研究》，国际观察，2018 年第五期，第 123 页

3 无公认非国家行为体，指具有有一些国家基本特征，但是没有得到国际承认从而获得国际法意义上国家身份的政治实体，有关介绍可参见杨恕，尹舒阳：《简论“无公认非国家行为体”的形成及其国际承认——以阿布哈兹、南奥塞梯、科索沃和北塞浦路斯为例》，国际安全研究，2015 年 04 期，第 72-90 页



割与俄罗斯的传统关系并谋求加入欧盟和北约，在“拥抱西方”之路上迈出了一大步；而乌克兰亲俄力量与俄罗斯也针锋相对，前者于 2018 年在乌克兰政府的强烈反对下自行选举了顿涅茨克州和卢甘斯克州的领导人，后者在 2019 年通过法令的形式允许乌东居民在不放弃乌克兰国籍的情况下获得俄罗斯国籍——继克里米亚之后，俄罗斯正在进一步加强对于乌克兰分离主义势力的支持和领导。

从上文的简单梳理中看，当今的乌克兰危机实际表现出“虚弱冲突和虚弱对话共存”的特点：尽管在 2018 年 12 月份的刻赤海峡危机中乌克兰一度进入“战争状态”，但这更多是一种为了争取国际社会同情、动用外交手段制裁俄罗斯的“姿态”，并没有升级到直接的激进的对抗“行动”，看似剑拔弩张的局势很快在法德两国的调停中降温。换句话说，乌克兰危机正在向常态化、持续化的方向不断发展，乌克兰危机演变为乌克兰问题的可能性不断增大。

### 三、乌克兰危机“问题化”的内在动因

笔者认为，乌克兰危机使得国内长期存在的经济、族群、政治矛盾公开化，而这些矛盾的解决往往需要漫长的时间，这是乌克兰危机“问题化”演变的内在动因。

由于历史沿革和自然资源分布差异等多种因素，乌克兰国内经济实际上存在着东西之别：以第聂伯河为界，煤炭资源丰富的东部和南部地区早在苏联时代就是重工业中心之一，与俄罗斯等独联体国家经济联系密切；而西部和北部地区则更多是传统的农业区，一直以来经济相对落后，却因为地理接近而与西方国家经济往来更多。独立之后的乌克兰经济没能像邻国波兰、匈牙利一样果断而迅速建立起市场导向，而是在决策举棋不定、左右为难中导致国内经济在自由化和私有化浪潮中进一步恶化：从 1989 年到 2000 年，乌克兰经济不升反降，国民生产总值从 827.09 亿美元跌至 312.62 亿美元，萎缩比达到 62.2%。<sup>4</sup> 面对经济大衰退，虽然乌克兰

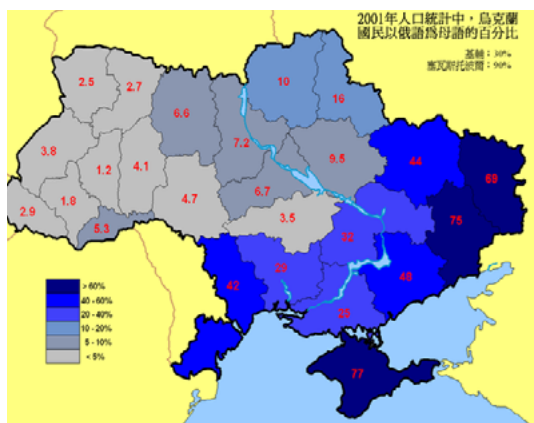
各地都受到了较大冲击，但冲击的形式和产生的结果却有很大不同：乌西地区原本脆弱的农业和加工业受到了来自欧盟自由市场的冲击，大量农场破产人口失业，当地人选择前往经济更发达的西欧等地打工谋生，却不得不面临欧盟对乌克兰公民入境的严格限制和审查，因此要求政府进一步扩大开放力度促进人员流动、整合乌克兰进入欧洲统一市场；而在国有产业集中的乌东地区，由于其生产生活高度内嵌于原苏联体系，导致许多国有资产在经济衰退和自由市场冲击中无所适从，而随后掀起的私有化运动更是使他们成为了有心人眼中的“猎物”，一批资本寡头得以崛起，而大量企业工人只能下岗。乌东地区贫富差距的拉大，使多数当地人要求加强国家对经济生活的控制力度，打击权力腐败和寡头政治，呼吁恢复同俄罗斯等传统关系国的经济联系和交往。

纵观乌克兰历史，“向东还是向西”一直是个核心命题。自基辅罗斯灭亡之后，乌克兰地区就先后被其他多个民族所征服，成为欧洲列强争霸的一大赛场。波兰人曾在这片土地确立霸权，但随后崛起的俄罗斯人借哥萨克人叛乱事件逐步将乌克兰东部地区纳入帝国版图。而在近代瓜分波兰、十月革命、两次世界大战等重大事件之后，现在的西乌克兰地区也划归苏联管辖。可以说，现代意义上的乌克兰版图不过是列强间在激烈政治斗争和利益交换之后耦合的产物。西乌克兰地区曾长期接受波兰和奥地利等国的统治，更早地接受到了西方自由、平等观念的熏陶，民主观念较浓；而东乌克兰作为俄罗斯帝国的一部分，其文化和思想多与俄罗斯相近，以至于被俄罗斯称为“小俄罗斯”。

尽管现代乌克兰人强调自己的民族身份，但其共同的东斯拉夫血统、东正教信仰（尽管有一小部分乌克兰人信仰天主教）和长期与俄罗斯人共处的历史使得俄罗斯因素依然深刻影响了乌克兰文化。根据乌克兰政府 2001 年的人口普查情况来看，超过 1427 万乌克兰国民视俄语为母语，占到乌总人口的 29.3%<sup>5</sup>，多分布在乌克兰东部和南部地区。

4 数据来源：世界银行 <https://data.worldbank.org.cn/indicator/NY.GDP.MKTP.CD?locations=UA&view=chart>

5 2001 年乌克兰人口普查 [http://ukrcensus.gov.ua/rus/results/nationality\\_population/nationality\\_population1/](http://ukrcensus.gov.ua/rus/results/nationality_population/nationality_population1/)



2001 年乌克兰人口统计中，乌克兰国民以俄语为母语的百分比<sup>6</sup>

而根据 2004 年基辅国际社会学研究所发表的调查，在生活中有更多包括乌克兰人在内的乌克兰公民使用俄语，俄语比官方人口统计所描述的情况更流通：约有 43—46% 的人口家中使用俄语<sup>7</sup>。但在乌克兰政治精英眼中，乌克兰国家应该建构在“乌克兰人说乌克兰语”的民族认同之上，而再加上俄罗斯已经被塑造成新生乌克兰共和国独立和安全的最大威胁，俄罗斯人和俄语自然而然地成为了受国家排斥的异类。早在 1989 年乌克兰语就被宣布为唯一的国语，公文处理只能用乌克兰语，高校绝大多数专业都用乌克兰语教学，俄语学校和幼儿园的数量被削减。<sup>8</sup> 乌克兰政府竭力推行的乌克兰化政策自然遭到了俄语群体的不满：他们要求授予俄语为国家第二国语的地位，恢复停办的俄语学校等等。为了获得东部选民的支持，2004 年尤先科在竞选中曾承诺要平等对待俄语和俄语公民。但在其上任之后，却坚持推行“去俄罗斯化”的文化政策，极大地伤害了乌克兰国内俄罗斯人的感情，加深了本就因经济问题而分裂的东西鸿沟。

迥异的经济和文化背景，反映到政治上便是明显的地区政治倾向。回顾历次乌克兰总统和议会选举，都能明显看到政党和候选人支持率高低与东西差异高度重合：以 2010 年乌克兰第二轮总统选举为例，候选人亚努科维奇的支持率在东部最高，而越往西则逐渐降低；而另一名候选人季莫申科则在西部地区狂捞选票，越往东却得票越少。这种地区政治并没有随着乌克兰民主化的进程而减弱，相反，地区差异使政府更迭成为了你死我活的战斗。随着危机后乌克兰新政府全面倒欧并且进一步推行“反俄政策”，国内的

政治生态留给东部各州的参与空间越来越小，分离主义也由此愈演愈烈，并在俄罗斯的介入后与中央政府“绝交”。

由此观之，乌克兰政府与乌东地区的关系很难在短时间内得到修复，而在矛盾存在、冲突延续的当下，国内政治这架失灵天平的恢复遥遥无期。

## 四、乌克兰危机“问题化”的外部环境

另一方面，目前乌克兰东部地区在政治上冲突双方虽僵持不下、维持着一种脆弱的均势平衡，但这其实是建立在该地区域外政治力量的暂时性离场之上。

首先，叙利亚内战的发酵和 ISIS 的崛起使中东再次成为世界热点，削弱了国际社会对乌克兰危机的关注。与乌克兰危机几乎同时时间爆发的，是极端组织伊斯兰国在中东地区攻城略地建立恐怖统治。2014 年美国组建国际联盟打击 ISIS，虽然取得了一定成效，但 ISIS 遗留下的政治中空势必将引起中东新一轮的动荡。而随着俄罗斯与叙利亚政府展开合作，中东再次成为俄美博弈的前线。美国及其盟友已经看到了俄罗斯在乌克兰问题上的强硬立场，继续推进乌克兰入欧入约将有可能进一步恶化美俄关系，这并不利于美国全球安全战略的开展。

其次，乌克兰的入欧进程并不如想象中那么顺利。欧盟在经过几次东扩之后，在“一国一票”原则下，其成员内部的差异性使得全票通过、作出吸纳新成员的决定变得更加困难。从 2016 年荷兰等国反对与乌克兰联系国协定就可以看出，欧盟内部对于乌克兰问题还没有达成一致。而随着美国特朗普政府上台，美欧传统盟友关系出现裂痕，欧洲特别是欧盟如何在新时期定位自身，如何以更加独立自主的姿态参与国际政治成为重点，为此，以法德为首的欧洲国家不断向俄罗斯释放积极信号，俄罗斯也积极回应，并促成了 2019 年“诺曼底峰会”的重启。欧盟或者说法德两国，是否会为了乌克兰而牺牲与俄罗斯改善关系的窗口期显然是未知数。可以预见的是，现如今深陷寡头和腐败

<sup>6</sup> 图片来源：<https://www.beichengjiu.com/geography/289448.html>

<sup>7</sup> 1994 年 -2005 年乌克兰社会：社会学报告 dif.org.ua.

<sup>8</sup> 刘显忠：《乌克兰危机的历史文化因素》，当代世界社会主义问题，2015 年 01 期，第 65 页

政治泥沼，无法满足入欧标准的乌克兰，想要加入欧盟还有漫长的路待走。

最后，乌克兰对俄罗斯而言具有特殊的战略与象征意义。俄乌两国经苏联时代发展起来经济体系有较强的互补性，因此长期以来俄罗斯将乌克兰作为自己的势力和影响力的控制范围。深感北约持续东扩带来的防卫压力的俄罗斯，自然对其他势力介入乌克兰格外敏感。在乌克兰危机爆发后，乌克兰当局不断切割与俄关系的现实情况下，俄罗斯选择将克里米亚和乌东问题作为自己影响乌克兰的政治杠杆的方针不会在短时间内改变。

## 五、乌克兰地区“问题化”的未来

如上文所述，乌克兰危机在内外因素的共同作用下不断发酵向地区常态问题发展，在“修复天平”和“再造天平”的进程都陷于停滞的当下，乌克兰危机“问题化”的趋势不可避免。

各势力围绕乌克兰的冲突和碰撞仍将持续，在失去调节机制的乌克兰，任何微小的加码行为或许都会再次引发巨大的危机。但鉴于土耳其入侵叙利亚、中东局势仍不明朗的现实，各方注意力主动返场乌克兰、再次打破地区内各力量“消极平衡”的可能性仍是未知数。

因此，在可以预测的范围内，在去年总统换届之后乌克兰的行动或许将成为最大的左右局势的最大变数。2019年乌克兰总统选举结果出人意料，作为政治素人的喜剧演员

泽连斯基在第二轮选举中击败波罗申科，以73.22%的得票率高票当选，而更引人瞩目的是，此次总统选举似乎跳出了往届选举中“得东失西，有西没东”的区域政治怪圈：其除利沃夫州以外的其他州得票率均高于波罗申科。泽连斯基作为总统候选人首次获得多数选区的支持的奇迹，被称为“泽连斯基现象”。新总统泽连斯基上台后，为了实现其竞选承诺，开始修正前任的外交政策，多次向俄罗斯发出积极信号，以图缓和早已陷入冰点的乌俄关系。

但是这并不是说乌克兰问题就此明朗，美国长期对待乌克兰的暧昧支持态度以及美方近期从叙利亚撤军的行动，使人有理由相信乌克兰或许将重新成为美国包围遏制俄罗斯战略的着力点，重新直接介入乌克兰时局并非绝无可能。而在“泽连斯基现象”背后西方对乌克兰内政的影响增强，俄罗斯的影响逐渐被边缘化的当下，俄罗斯是否会寻找更激进的手段去改写乌克兰政治版图也不得而知。最后近期乌克兰国内激进的民族主义者针对总统“对俄罗斯示弱”的示威以及连带的泽连斯基支持度的下降，对执政政府的顶层决策和执行定力都将是严峻的考验。

总之，乌克兰当前的“少战少和”的局面或将面临重大改变：要么在新一轮的内部动荡外部干预到来之前，乌克兰政府能与有关各方达成谅解或共识，通过撤离军队交换俘虏等务实手段恢复双方政治互信，推动各方有效率地重新开启对话和谈判，为顿巴斯地区带来久违的和平之光；要么在内外交困中，深陷冲突和对立的泥沼中无法自拔，进一步使危机向着问题化的方向发展。

# 打击网络犯罪国际合作中的利益冲突与路径选择

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## 摘要

“在汹涌而来的跨国网络犯罪面前，任何一国都难以独善其身，仅仅依靠一国之力对网络空间进行法律治理已经力不从心。”<sup>1</sup>在互联网日益普及、网络信息传递愈发快速的当下，低成本、传播快、范围广、治理难的网络犯罪活动越来越频繁，产生了极大的社会危害，引发了全球风险。由于世界各国面对网络犯罪的能力差异较大，取长补短、共商共治的国际合作势在必行。但对国家利益的维护和追求使得各国对待网络空间治理的态度不尽相同，美国、日本等国主张的“网络自由”和俄罗斯、中国等国主张的“网络主权”出现了矛盾。在打击网络犯罪全球合作的问题上，国际会议机制、国际组织机制和国际公约机制或是可行的解决路径。

关键词：网络犯罪；国际合作；利益冲突；路径选择

## 一、网络犯罪及其发展现状

网络犯罪是伴随着信息技术的发展、计算机的普及而出现的一种高智商、高科技犯罪，是计算机发展到高级阶段的产物<sup>2</sup>。通常，我们将网络犯罪描述为以网络作为本体、工具或地点的犯罪活动，其形式既包括对计算机数据或系统进行攻击，也包括为谋取个人利益或对他人的财产造成损害为目的且与计算机有关的行为。

相较于传统犯罪，网络犯罪具有以下特点：

第一，网络犯罪成本低、传播快、范围广。网络犯罪的犯罪对象主要是网络信息系统及网络系统中存储、传输的信息<sup>3</sup>，信息作为一种无形财产，属于犯罪对象中“物”的范畴。由于在互联网中采集信息与散步信息的成本较为低廉，行为人可以利用网络的互联互通

性，在任何地方的一台接入互联网的计算机上快速实现规模大、范围广的网络犯罪。

第二，网络犯罪技术性高、隐蔽性强、取证困难。网络犯罪的行为人在网络空间中通过编程、加密、解码等专业技术实施犯罪行为。在犯罪实施成功之后，行为人可以通过一定的技术手段删除证据以逃避追查，并且相对于其他的犯罪，其在犯罪预备阶段不容易被识破。电子证据易删除、易篡改、易丢失的特点，使网络犯罪的取证难度极高。

第三，网络犯罪治理困难重重。在立法层面，各国由于国情的差异，在法律体系的建设、网络犯罪相关法律法规的制定及对相关立法细节的理解上有许多不同；在司法层面，跨国网络犯罪的犯罪行为发生地和犯罪结果发生地往往不同，使得各国的司法管辖权出现了冲突；在执法层面，跨国网络犯罪需要各国积极配合、共同打击，但利益冲突导致很多合作并不稳定，与此同时，各国在司法能力等方面建设上的巨大差异导致了“避罪天堂”的产生。

第四，网络犯罪社会危害性极大。在实践中，大量犯罪分子或组织选择实施跨国犯罪以规避国家监管，随着各国关联性愈发复杂，网络犯罪不仅会对单一国家造成孤立的影响，也会给全球带来更加剧烈且不可逆的系统性冲击。世界经济论坛在《2019 年全球风险报告》中指出，未来十年里，“大规模数据欺诈及盗窃”和“网络攻击”将成为全球第四大和第五大重要风险<sup>4</sup>。

在世界各国加强重视的同时，网络犯罪依然在不断动态化发展。根据数据统计与预测，当前网络犯罪在攻击目标和攻击方式上呈现以下趋势：（1）攻击目标身份多样化。FBI IC3（FBI Internet Crime Complaint Center）平均每年收到与网络犯罪相关的投诉超过 35 万例<sup>5</sup>，其中受害者既包括个人，也包括政府、企业和社会组织。（2）网络钓鱼依然是首选攻击方式。网络钓鱼电子邮件数量在 2018 年 1 月至 12 月之间大幅增长

1 于志刚：《缔结和参加网络犯罪国际公约的中国立场》，《政法论坛》2015 年第 5 期，第 91 页；

2 吴俊，穆萍萍：《浅析网络犯罪同计算机犯罪之异同》，《法制与社会》，2008 年第 11 期，第 340 页；

3 同上；

4 World Economic Forum, The Global Risks Report 2019, 2019, p.16;

5 FBI IC3, 2018 Internet Crime Report, 2019, p.5;

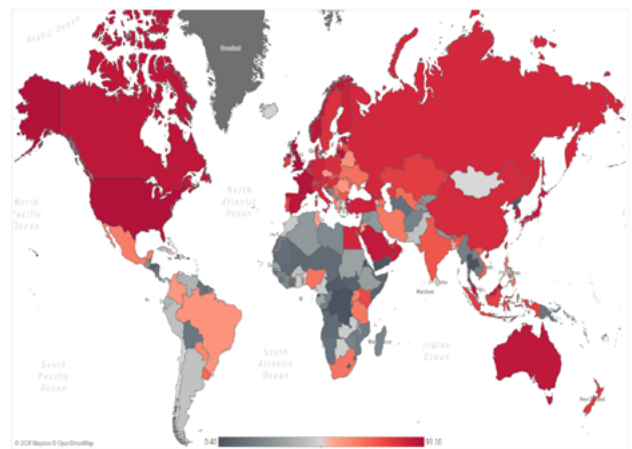
250%，每月新增逾 4700 亿条<sup>6</sup>，同时英文邮件的数量从 96% 降至 90%<sup>7</sup>。（3）勒索软件造成的危害不减。勒索软件感染率在 2017 年 3 月至 2018 年 12 月之间下降了约 60%，这是近年来首次出现下降现象，但近一半的公司支付了高额赎金<sup>8</sup>，导致整体损失不降反升。（4）加密货币挖矿现象普遍。2018 年，全球月平均加密货币挖矿发生率为 0.12%，高于勒索软件的 0.05%<sup>9</sup>，同时，加密货币挖矿软件数量在 2018 年第一季度激增了 629%<sup>10</sup>。（5）社交媒体成为重要攻击媒介。过去五年中，超过 13 亿个社交媒体用户的数据遭到泄露，2017 年至 2018 年之间非法数据交易约 50% 与社交媒体平台相关，促使犯罪分子的欺诈收入增长 60%<sup>11</sup>。（6）移动化趋势愈发显著。2018 年，通过移动应用程序进行的欺诈行为比 2015 年增加了 600%，并且 65% 的欺诈交易始于移动设备<sup>12</sup>。

日趋严峻的网络犯罪形势给世界经济带来了巨大的负面影响，据估计，网络犯罪造成的经济损失已达全球 GDP 的 0.8%<sup>13</sup>。笔者认为，两方面的影响可能会进一步提高经济压力：一方面，预防网络犯罪的支出极高，据预测，2017 年至 2021 年间世界各国将在网络安全相关的产品和服务上累计支出超过 1 万亿美元<sup>14</sup>，考虑到目前效果并不理想，各国政府和企业或将进一步提高资金投入力度；另一方面，遭受网络犯罪的损失极大，据预测，2021 年时网络犯罪将给世界带来 6 万亿美元的损失，这一数据将是 2015 年的 2 倍<sup>15</sup>，如此可观的经济收益或驱使更多网络犯罪组织的出现。

## 二、打击网络犯罪的能力差异和利益冲突

虽然网络犯罪几乎波及到全球的每一个角落，但并非所有国家都有足够的应对网络犯罪日益增长局势的能力。我们将 2018 年 175 个国家的网络安全指数（GCI，

Global Cybersecurity Index）进行了可视化呈现，如图 -1 所示，该图直观地展示了世界各国在针对网络安全的法律、技术、组织、能力建设和国际合作等五个方面的综合评分差异，颜色越趋向于红色表示在网络安全问题上表现越好，越趋向于黑色表示表现越差。不难看出，在全球范围内，经济发展程度与网络安全存在一定的正向关系，但仍有部分发达国家在网络防御领域出现了不少漏洞，也有较为落后的发展中国家在相关领域有许多可借鉴之处。因此，随着网络犯罪成为严峻的全球性挑战，各国日渐意识到取长补短的重要性，希望通过国际合作以打造洁净的网络空间。



但迄今为止，打击网络犯罪国际合作的

图 - 1 2018 全球网络安全指数  
数据来源：国际电信联盟

实践并非一帆风顺，其最直观的体现便是对国际公约的理念分歧。以美国为首的多数发达国家拥护“网络自由”，这些国家希望通过塑造全球网络空间信息流动环境，将全球网络空间和最新的互联网应用作为实践自身政策和战略的工具，在国际合作上强调跨境取证的时效性，削弱国家司法主权。这些国家主张依照现有的《布达佩斯公约》为基础构建全球性法律机制，并极力将该公约推广为全球性公约。近年来，美国、日本、加拿大和欧洲委员会成员国在联合国、“伦

6 Microsoft, Microsoft Security Intelligence Report Volume 24, 2018, p.20;

7 ENISA, ENISA Threat Landscape Report 2018, 2019, p.56;

8 Microsoft, Microsoft Security Intelligence Report Volume 24, 2018, p.7;

9 Microsoft, Microsoft Security Intelligence Report Volume 24, 2018, p.10;

10 ENISA, ENISA Threat Landscape Report 2018, 2019, p.96;

11 Bromium, Social Media Platforms and the Cybercrime Economy, 2019, p.6;

12 RSA, 2018 Current State of Cybercrime, 2018, p.6;

13 McAfee, Economic Impact of Cybercrime—No Slowing Down, 2018, p.4;

14 Cybersecurity Ventures, 2019 Official Annual Cybercrime Report, 2019, p.6;

15 Cybersecurity Ventures, 2019 Official Annual Cybercrime Report, 2019, p.2;



敦进程”等多个场合倡议和推动该公约的全球化，反对制定新的全球性公约。例如，在2010年第十二届联合国预防犯罪与刑事司法大会上，美国、加拿大等发达国家主张《布达佩斯公约》是全球合作的适当机制，应当将重点放在解决可操作性的问题上，而不是重新议定一项全球性公约。无独有偶，欧洲委员会秘书长托尔比约恩·亚格兰曾发声：

“《布达佩斯公约》提供了清晰和全面的解决网络犯罪问题的方案并已经获得了广泛的支持，而在联合国机制下发展全球性网络犯罪公约问题重重。”

与之相反，以俄罗斯、中国为首的广大发展中国家拥护“国家主权”，坚持认为与互联网有关的公共政策问题的决策权属于各国主权，应对网络空间进行合理监管，强调国际合作跨境取证应事先征得当事国同意，尊重国家司法主权。这些国家认为《布达佩斯公约》在制定过程中缺乏亚非拉地区发展中国家的广泛参与，并且对非欧洲委员会成员国设定了苛刻的准入条件，并不能反映发展中国家的现实需要，忽视了占世界大多数的发展中国家的利益，因此不应以《布达佩斯公约》为全球性公约的基础，而应在联合国的框架下制定新的公约。俄罗斯、中国等国家已作出了一系列实质性努力：2004年，中国等国首次在联合国预防犯罪和刑事司法委员会上便提出，希望在联合国机制下制定一部专门打击网络犯罪的国际公约。2013年，在联合国预防犯罪和刑事司法委员会第22届会议上，巴西、俄罗斯、印度、中国、南非五国以“金砖五国”的名义向联合国提出了《加强国际合作，打击网络犯罪》的决议草案，要求进一步加强联合国对网络犯罪问题的研究和应对<sup>16</sup>。2017年，俄罗斯向联合国大会提交《联合国打击网络犯罪国际合作公约草案》<sup>17</sup>。虽然上述草案在国际社会上引起了强烈反响，但由于美国和欧洲老牌网络强国的反对和干扰，真正意义上的全球性公约短时间内可能较难出现。<sup>18</sup>

### 三、打击网络犯罪国际合作的路径选择

毋庸置疑，在可预见的一段时间内世界各国加强打击网络犯罪国际合作的需求和趋势将会持续加强，但由于包括利益冲突在内的阻力存在，打击网络犯罪国际合作之路仍有很多不确定性。考虑到网络犯罪问题的客观现实，并参考各国应对其他全球性挑战的成功做法，我们认为当前主要有以下三条可选路径。

#### （一）国际会议机制

国际会议平台是各国推动合作、协调关系、缓解冲突、维护国际秩序的场所，能够发挥单个主权国家难以起到的独特作用。随着网络犯罪逐渐成为全球性的非传统威胁，越来越多的国际会议将打击网络犯罪列入议题单之中，“伦敦进程”（London Process）便是其中的典型。“伦敦进程”是一个全球性的多边会议机制，也是世界上迄今为止唯一一个专门针对网络安全和网络空间治理问题的多边会议，目前已在伦敦、布达佩斯、首尔和海牙举办了四次会议，与会国数目均超过60个，并且有行业代表、智库代表等非政府力量参与其中。“网络犯罪”是“伦敦议程”的五大议题之一，故四次会议均涉及了打击网络犯罪的国际法规则问题。但由于会议“价值观辩论”的色彩非常浓厚，至今“伦敦进程”未出台任何成果性文件。

通常来说，国际会议机制侧重于立场表达和意见交换，部分国家会将其视作一个“演说平台”，借机宣传本国的立场和理念，力求获得更多国家的认可和肯定。更多国家会在国际会议上交流意见和看法，以加强彼此之间的了解和信任，从而为开展更深层次的政治、经济、文化、法律合作奠定基础。同时，国际会议机制的准入门槛设置灵活，非国家行为体也可以发出自己的声音。国际会议机制也存在不可避免的缺陷，“务虚”大于“务实”的会议风格使得很难有成果性文件产出，即使出台了成果性文件，也不具有法律约束力和强制力，这使得国际会议机制能在短时

16 蔡雄山：《网络犯罪的国际治理》，《方圆》，2014年第4期，第32-33页；

17 Draft United Nations Convention on Cooperation in Combating Cybercrime, The Embassy of the Russian Federation to the United Kingdom of Great Britain and Northern Ireland, <https://www.rusemb.org.uk/fnapr/6394>, 2020年3月10日登录；

18 李彦：《网络犯罪国际法律机制建构的困境与路径设计》，云南民族大学学报（哲学社会科学版）2019年6月，第36版，第135-144页；

间内为各国提供一个共商共议全球性议题的平台，但很难成为解决问题的最终途径。

所以，如果希望通过国际会议机制合作打击网络犯罪，可以考虑在巩固现有的双边会议机制的同时，建立更多新的专门性多边会议，为主张不同路径的国家搭建一个平等交流的平台，推动研究和制定体现与会国利益和需求的示范条款，促使国家间的交流、合作范围的交集增多，以实现示范条款、谅解等获得更大范围的认可。

## （二）国际组织机制

为应对网络犯罪造成的危害，国际组织也在依靠现有的组织平台积极推动网络安全和网络犯罪领域的规制、标准、制度建设。

《欧洲委员会布达佩斯公约》、《阿拉伯国家联盟打击信息技术犯罪公约》、《非洲联盟网络安全和个人数据保护公约》等，都是国际组织机制下制定区域性条约打击网络犯罪的重要尝试。2010年，联合国大会在其第65/230号决议中，依据《萨尔瓦多宣言》第42段要求预防犯罪与刑事司法委员会组建网络犯罪开放式政府间专家组<sup>19</sup>，负责研究会员国、国际社会和私营部门在网络犯罪问题上的对策，该专家组是目前联合国框架下探讨打击网络犯罪国际规则的唯一平台，至今已召开五次会议。除此之外，国际电信联盟、国际刑警组织、欧盟等国际组织也做出了诸多努力。

相较于国际会议机制，国际组织机制具有更强的稳定性。国际组织通过举行定期会议、成立政府间专家组、建立实体机构等方式，推动世界各国达成更多共识，为进一步构建全球性公约奠定基础。但目前除了联合国<sup>20</sup>和国际刑警组织外，其余参与治理网络犯罪问题的均是区域性组织，导致建立的机构具有地域局限性，且其制定的制度适用不广泛，难以满足解决全球性问题的需求。而联合国受限于其职权，出台的宣言、决议、报告等文件并不具有约束力；国际刑警组织的职能也有限，并不能在协调多方合作、提供技术支持之外，为治理网络犯罪提供法律制度层面的帮助。

所以，如果希望通过国际组织机制合作打击网络犯罪，可以考虑成立与现有机构职

能不交叉、不冲突的实体性机构，就网络犯罪治理的某一细分方向开展实践。同时，推动相关国际软法的形成，而非一步到位完成全球性公约。

## （三）发挥国际公约机制的作用

与上述两种机制不同，国际公约机制具有较强的约束力，这意味着能最有保障地实现国际合作，《联合国气候变化框架公约》、《联合国打击跨国有组织犯罪公约》等采用的均是这一机制。但也是由于约束力的存在，在打击网络犯罪全球合作的问题上，国际公约机制面临最大的阻力，各国的利益矛盾将在国际公约制定的过程中最大化。

就目前而言，俄罗斯、中国等发展中国家的主张得到越来越多国家的认可与支持。2019年11月18日，联合国大会表决了俄罗斯等46个国家共同提交的题为“打击为犯罪目的使用信息和通信技术行为”的决议草案，该决议草案以88票赞成、58票反对、34票弃权获得通过<sup>21</sup>。如图-2所示，红色表示赞成，黄色表示弃权，蓝色表示反对。根据该决议草案内容，“联合国大会决定设立一个代表所有区域的不限成员名额特设政府间专家委员会，以拟定一项关于打击为犯罪目的使用信息和通信技术行为的全面国际公约<sup>22</sup>。”从上图可以看出，美国、日本、加拿大和绝大部分欧洲理事会成员国均投了反对票，国家间利益冲突并不会因为联合国决议的通过而被调和。

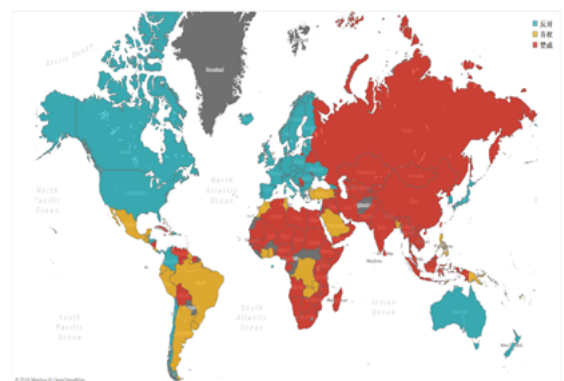


图-2 联合国 A/RES/74/247 号决议表决情况  
数据来源：联合国 A/RES/74/247 号决议

对新公约持反对意见的国家依然希望坚持通过对《布达佩斯公约》“小修小补”甚至“原封不动”以将其转化为全球性公约。虽然《布达佩斯公约》已有64个正式缔约

19 A/RES/65/230 号决议，联合国大会，2010 年；

20 此处“联合国”包括其主要机关、方案、基金、专门机构，国际电信联盟是其专门机构；

21 A/74/401 号报告，联合国大会第三委员会，2019 年；

22 A/RES/74/247 号决议，联合国大会第三委员会，2019 年；

国<sup>23</sup>，且已对 140 余个国家<sup>24</sup>的网络犯罪立法工作产生了指导性影响。但由于联合国 A/RES/74/247 号决议的通过，该思路已被大多数国家所放弃，这意味着即使能做到对《布达佩斯公约》取之精华、弃之糟粕，也只是存在成功的可能，但并不乐观。

所以，联大决议的通过对于国际公约机制而言或许是一个重要分水岭。我们需要承认，仅从结果出发来考量，在联合国框架下构建新公约或是最理想的路径选择，但起点与终点的距离尚不可知，在继续前行的路上，新公约的框架和内容将成为新一轮辩论的焦点。前路漫漫，道阻且艰。

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23 Parties/Observers to the Budapest Convention and Observer Organizations to the T-CY, Cybercrime, T-YC Committee, Council of Europe, <https://www.coe.int/en/web/cybercrime/parties-observers>, 2020 年 3 月 10 日登录；

24 Benin invited to accede to the Budapest Convention on Cybercrime, T-YC News, T-YC Committee, Cybercrime, Council of Europe, <https://www.coe.int/en/web/cybercrime/-/benin-invited-to-accede-to-the-budapest-convention-on-cybercrime>, 2020 年 3 月 10 日登录。





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