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# MASTERARBEIT

Titel der Masterarbeit

„The International Court of Justice Case between Australia  
versus Japan - the Problem of Whaling  
in Antarctica Waters“

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angestrebter akademischer Grad

Master (MA)

Wien, 2015

Studienkennzahl lt. Studienblatt:

A 067 805

Studienrichtung lt. Studienblatt:

Individuelles Masterstudium:  
Global Studies – a European Perspective

Betreuerin / Betreuer:

ao. Univ.-Prof. Mag. Dr. Friedrich Edelmayer, MAS

UNIVERSITÄT LEIPZIG



universität  
wien

# MASTERARBEIT / MASTER THESIS

Titel der Masterarbeit /Title of the master thesis

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## Abstract

This thesis looks at the whaling industry and contrasting approaches to the issue. One based on Western norms, which have been widely adapted as universal juxtaposed against an exceptional view on the issue, as symbolised by Japan. Specifically the study will look at the case of whaling in the Antarctic (*Australia v. Japan: New Zealand intervening*) which was contested by Australia against Japan, contending that Japan's whaling programme in the Antarctic (JARPA II) was not within the provisions of Article VIII, paragraph 1, of the International Convention for the Regulation of Whaling. After a brief outline on the history of whaling in these contesting nations, I will approach the subject of whaling as being more cultural than territorial. This is to see how whaling, from a position of great importance in the 19th century has declined in 20th century, and how a global emergence of environmental norms were successful to bring sea change in the attitude towards whaling.

It will look at how attitudes to whaling changed from the 1960s to the 1980s. It will look at cultural attitudes to whaling in Australia and Japan and how these are closely connected to differing views on whale. Finally it will look at what the decision means for the whaling industry, currently confined to three countries, Iceland, Norway and Japan, with an emphasis on Japan. Then, chapters will outline the main issues with regard to whaling in Japan and Australia. It will then conclude by looking at the importance and implications of the ICJ case on whaling and global environmental norms.

## Zusammenfassung

Diese Masterarbeit befasst sich mit der Walfangindustrie und den widersprüchlichen Zugängen zu den Fragen des Walfangs. Einer derselben basiert auf westlichen Normen, die zu einem beträchtlichen Teil als universell gelten, und jenen gegenüber stehen, die von Japan vertreten werden. Insbesondere behandelt die Studie den Rechtsstreit über den Walfang in der Antarktis, der zwischen Australien und Japan vor dem Internationalen Gerichtshof in Den Haag ausgetragen wurde. Australien warf Japan dabei vor, sein Walfangprogramm in der Antarktis (JARPA II) entspreche nicht den Bestimmungen des Artikels VIII, Absatz 1 des Internationalen Übereinkommens zur Regelung des Walfangs. Nach einem kurzen Überblick über die Geschichte des Walfangs in diesen Nationen werde ich das Thema mehr als kulturelles denn als territoriales Problem darstellen. Es wird gezeigt, wie der Walfang nach seiner großen Bedeutung im 19. Jahrhundert während des 20. Jahrhunderts immer mehr zurückging, und wie die globale Umsetzung von Umweltnormen erfolgreich die Haltung gegenüber dem Walfang veränderte.

Diese Haltung veränderte sich besonders zwischen den 1960er und den 1980er Jahren. Es werden die kulturellen Einstellungen zum Walfang in Australien und Japan betrachtet und wie diese mit den unterschiedlichen Ansichten über den Walfang eng verbunden sind. Schließlich wird darauf geachtet, was die Entscheidung des Gerichtshofes für die Walfangindustrie bedeutet, die derzeit in drei Ländern, nämlich Island, Norwegen und Japan, noch existiert, mit einem Schwerpunkt in Japan. Auch werden die wichtigsten Fragen im Zusammenhang mit dem Walfang in Japan und Australien skizziert. Geschlossen wird die Arbeit mit der Aufarbeitung der Frage, welche Bedeutung die Entscheidung des Internationalen Gerichtshofes für den Walfang und für globale Umweltnormen hat.

## Keywords / Abbreviations

AEEZ	Australian Exclusive Economic Zone
ATS	Atlantic Treaty System
AWS	Australian Water Sanctuary
CBD	Convention on Biodiversity
CCAMLR	Convention on the Conservation of Antarctic Marine Living Resources
CITES	Convention on International Trade in Endangered Species
EPBDCA	Environment Protection Biodiversity Act
ICJ	International Court of Justice
ICR	Institute of Cetacean Research
ICRW	International Convention for the Regulation of Whaling
IFAW	International Fund for Animal Welfare
IWC	International Whaling Commission
JARPA	Japanese Whale Research Program under Special Permit in the Antarctic
JWA	Japan Whaling Association
NAMMCO	North Atlantic Marine Mammal Commission
UNCLOS	United Nations Convention on the Law of the Sea

## Foreword

This study is indebted to the support and guidance of several people, whose insights have gone a long way into transforming an idea into a thesis. I would like to express my great appreciation for the encouragement provided by my supervisor, Prof. Dr. Friedrich Edelmayer, who helped nurture and shape my original concept, and showed great patience with the many transformations, the draft idea underwent before emerging in its present form.

I would also like to thank all professors as well as non-teaching staff Magister Leopold Kögler, and Magister Markus Gatschnegg, and Ms. Konstanze Loeke who have continuously guided me at the Universities of Vienna and Leipzig, during my studies in the Erasmus Mundus Global Studies Programme. Finally, I would also like to convey here my gratitude to friends and family for their support and forbearance throughout this endeavour.

## 1 The Historical Background

Whaling, like hunting, has always been part of human life. This chapter will look at the history of whaling from its golden age in the first half of the 19th century when whaling ships, predominately American, roamed the oceans of the world to its decline in the second half when whaling ships were broken up for firewood. It will examine how discussions, starting in the 1920s, sparked by a concern over the over fishing of whales led to the International Whaling Convention (IWC) signed in 1949, the first international convention on whaling. It will look at how the changing discourse regarding whales, which had become an actor in international politics, transformed the IWC from a pro-whaling agreement to an anti-whaling convention.

Evidence of whaling and whale-eating goes back to Neolithic times. Traditional whaling has been an intrinsic part of the culture of many people including the Inuit (Arctic Ocean), Basque (Atlantic Ocean) and the Japanese (Pacific Ocean). Whales have been mentioned in the Bible, most notably in the Book of Jonah, one of the Minor Prophets in the Hebrew Bible, who while trying to evade God's command to preach in Nineveh, is swallowed by a giant sea creature, commonly accepted to be a whale.<sup>1</sup> Whales and dolphins were common motifs in vases and coins used by the ancient Greeks, though there is little evidence that the ancient Greeks and Romans had a whaling tradition.

However, there are records of whale-eating, most probably from beached whales.<sup>2</sup> In later centuries whaling became important reaching its high point in the 19th century. The meat, skin and blubber of whales provided protein, fats, vitamins and minerals. Baleen/whalebone was used for fishing lines, baskets, and even as roofing material. It was used to make tools, and elements of dresses such as the corsets worn by Victorian women. One of the most important benefits of whale hunting was whale oil that came from the blubber of bowhead whales, and the head cavity of sperm whales. Indeed, the smokeless, odourless candles

<sup>1</sup> Holy Bible, King James Version, Book of Jonah, pp. 613–15. Jonah is also referred to in the Gospel of Matthew (see Matthew 12:38–42 and 16:1–4) and the Gospel of Luke (see Luke 11:29–32). While the Hebrew refers only to a “great fish” English translations accept this to be a whale.

<sup>2</sup> Mark Kurlansky, *The Basque History of the World*, New York: Random House, 2011, p. 48.



made from spermaceti of sperm whales have been hailed as the best candles ever made.<sup>3</sup>

By its very nature, the whaling industry is an apt subject for global history. Whaling crews were international. Immigrants who were trying to make it in America flocked to the industry. Products from the whaling industry were used all over the world.<sup>4</sup> Sperm whale oil taken by Nantucket<sup>5</sup> ships off the coast of North Carolina lit London's street lamps in an effort to effectively combat crime in the metropolis.<sup>6</sup> In the 1740s whale oil lighted nearly 5000 lamps on London's streets, and it was the sole source of industrial lubricant.<sup>7</sup>

In America, the centre of the world whaling industry, colonists relied on whale oil to light their lamps. By the mid-1700s it had become difficult to find whales near the American coast. The American whaling industry then expanded worldwide including the Arctic, the Pacific, and the Indian and South Atlantic oceans. In the late 19th century whaling was an international enterprise. For example, surviving records from 18th century Japan show that the waters off the coast of the Mito domain (roughly contiguous with modern-day Ibaraki Prefecture) saw intense whaling activity. Records survive of 104 sightings of whaling ships, mostly American, off the coast of the domain between 1807 and 1847. The vast majority of these, 83, occurred between 1822 and 1829 including 42 sightings in 1823 and 1824 alone.<sup>8</sup> This coincides with the golden age of American whaling.

Whale hunting was also a rite of passage that made great demands on physical and mental resources immortalized in *Moby Dick* (1851), the classic novel by Herman Melville, on 19th century whale hunting. In that century whaling reached its high point. Its eclipse began later in the 19th century mostly as a result of the discovery of oil.<sup>9</sup> Other countries that were prominent in whaling were Australia, Norway, Iceland and Japan. The patterns of whaling in these countries were similar to that of the American industry. For instance, Dickinson and Sanger, in an article on the whaling industry in Newfoundland from 1898 to 1972, come up with a template for whaling. They see the industry following a

<sup>3</sup> William F. Perrin, *Encyclopaedia of Marine Mammals*, Amsterdam: Elsevier, 2009, p. 1246.

<sup>4</sup> Eric Jay Dolin, *Leviathan: The History of Whaling in America*, New York: W.W. Norton & Co., 2007.

<sup>5</sup> An island 30 miles south of Cape Cod, in the American state of Massachusetts which was the centre of the 19th century American whaling industry.

<sup>6</sup> Dolin, *Leviathan*, p. 106.

<sup>7</sup> Craig Dilworth, *Too Smart for our Own Good: The Ecological Predicament of Humankind*, Cambridge, UK: Cambridge University Press, 2010, p. 318.

<sup>8</sup> David L. Howell, "Foreign Encounters and Informal Diplomacy in Early Modern Japan", *The Journal of Japanese Studies*, 40, 2, 2014, p. 302.

<sup>9</sup> Elmo Paul Hohman, *The American Whaleman: A Study of Life and Labour in the Whaling Industry*, New York: Longmans, Green and Co., 1928.

specific pattern: a global pattern of whale exploitation, operational expansion, resource depletion, and industry closure.<sup>10</sup>

Just like in the American whaling industry whaling in these countries was an important economic supplement for those it employed. The variety of and demand for whale products (including oil, baleen, bone, meat, and “guano”<sup>11</sup>) also changed over time. The whaling industry in Newfoundland was closely connected to Norway. “Norwegian investors and entrepreneurs used their capital, technologies, and overall knowledge of the industry as a catalyst to mobilize Newfoundland capital in joint ventures.”<sup>12</sup> For all its international impact, whaling was primarily an American enterprise. In 1846, out of a total of 900 whaling ships worldwide, 735 were American, representing a capital investment of nearly seventy million dollars.<sup>13</sup> Whaling was America’s fifth largest industry. In 1853, the whaling industry’s most profitable year, the American whaling fleet killed more than 8,000 whales to produce 103,000 barrels of sperm oil, 260,000 barrels of whale oil, and 5.7 million pounds of baleen, all of which generated sales of 11 million dollars.<sup>14</sup>

Whaling was a hierarchical industry that mirrored the complexities of 19th century America. Thousands of young men, many of them first generation immigrants, toiled on the whaling ships, and men and women in a whole range of subsidiary industries that were crucial to the outfitting of the ships or the processing of whale products. For example, there were thousands of Azorean, Cape Verdean and Luso-American whalers during the 162 year history of the Portuguese presence in the American whaling industry (1765–1927).<sup>15</sup>

Though whaling offered them an opportunity to attain the American dream, whaling also reflected the inequalities of America. Even as whaling generated enormous profit, the shares of whale men kept on decreasing.<sup>16</sup> The marginalisation of native people continued in the whaling industry. For example, many Wampanoag Indians from Nan-

<sup>10</sup> Sean T. Cadigan, “Twentieth-Century Shore-Station Whaling in Newfoundland and Labrador (Review)”, *The Canadian Historical Review* 87, 3, 2006, pp. 515–517.

<sup>11</sup> Guano (Spanish, org. Quechua wanu) is the excrement of seabirds, cave-dwelling bats, pinnipeds, or (in English usage) birds in general.

<sup>12</sup> Cadigan, *Twentieth-Century Shore-Station Whaling*, Abstract at [http://www.researchgate.net/publication/236764408\\_Twentieth-Century\\_Shore-Station\\_Whaling\\_in\\_Newfoundland\\_and\\_Labrador\\_%28review%29/](http://www.researchgate.net/publication/236764408_Twentieth-Century_Shore-Station_Whaling_in_Newfoundland_and_Labrador_%28review%29/), accessed on January 31, 2015.

<sup>13</sup> Dolin, *Leviathan*, p. 107.

<sup>14</sup> Dolin, *Leviathan*, p. 107.

<sup>15</sup> Donald Warrin, *So Ends this Day: The Portuguese in American Whaling, 1765–1927*, University of Massachusetts Dartmouth, Centre for Portuguese Studies and Culture, 2010.

<sup>16</sup> Dolin, *Leviathan*, p. 106.

tucket, the centre of the whaling industry in America, where trapped on whaling ships because of debt.<sup>17</sup>

Its impact also cut across gender. One of the best works on whaling history that came out in 2000. Norling's<sup>18</sup> study of the wives of whalers shows that land-based labour of women was crucial to the whaling industry. However, she also shows how the long separations between whalers and their wives led them into conflict with the dominant ideology of their era—Victorian domesticity, which saw women as subordinate to men. The whaling industry was not without its challenges. Wars affected it. For example, the American Revolutionary War (1776 to 1783) almost destroyed the industry. As Dolan points out, by the time the Treaty of Paris ended the war in 1783, the “American whale fishery lay in ruins”.<sup>19</sup>

In the first half of the 19th century the industry recovered in spite of the War of 1812<sup>20</sup>, but by the second half of the 19th century the industry began to decline because of a variety of factors including the American Civil War, the replacement of whale oil by products derived from oil, such as kerosene, a series of Arctic disasters, and international competition especially from the Norwegians, who introduced the harpoon cannon in the 1860s. The oil wells of Pennsylvania pumped out in one year the same amount of a cheaper, more abundant substance than the nation's whaling fleet could acquire in a decade. By the late 19th century, most whale ships were broken apart for firewood.<sup>21</sup> After 1900, whaling was regarded as belonging to the glamorous past in America, as shown in the 1922 film *Down to the Sea in Ships*, set in the 1850s and filmed in New Bedford, a former centre of the whaling industry.

### 1.1 The History of Japanese Whaling

Commercial whaling has been an important activity in Japan from the 17th century. The modern Japanese whaling industry emerged in the late 19th century with harpoon guns mounted on the bow of ships replacing traditional net fishing. For the first time Japanese whalers were able to hunt species such as blue whale, fin whale, sei whale and Bryde's whales, which were out of the reach of traditional fishermen who used nets. Japanese whaling fleets were first launched in 1934 and expanded.

<sup>17</sup> Daniel Vickers, “The first whale men of Nantucket”, *The William and Mary Quarterly: a Magazine of Early American History*, 1983, pp. 560–583.

<sup>18</sup> Lisa Norling, *Captain Ahab Had a Wife: New England Women & the Whale fishery, 1720 – 1870*, Chapel Hill, NC: University of North Carolina Press, 2000.

<sup>19</sup> Dolin, *Leviathan*, p. 163.

<sup>20</sup> The War of 1812 was a military conflict, lasting for two-and-a-half years, between the United States of America and the United Kingdom of Great Britain and Ireland, its North American colonies and its American Indian allies. Seen by the United States, and Canada as a war in its own right, it is frequently seen in Europe as a theatre of the Napoleonic Wars, as it was caused by issues related to that war.

<sup>21</sup> Dolin, *Leviathan*, p. 109.

“However, it wasn’t until 1934 that Japan expanded its whaling to Antarctica. Whales helped keep Japanese citizens fed both during and after World War 2. In 1947 whale meat made up almost half of all animal protein consumed by the country. Nearly 20 years later, whales continued to make up nearly one-quarter of the Japanese diet”.<sup>22</sup>

During and after the war, when Japan was subjected to a naval blockade, whales became a cheap and plentiful source of protein. By 1947 half of animal protein consumption in Japan came from whales. Japanese ships ranged far and wide, and by “1962, 226,000 tons of whale meat had been captured”. In that year, whale meat consumption as a proportion of total meat consumption reached 23 percent.<sup>23</sup>

Western opposition to whaling has deep roots in the way Japan is seen in the Western imagination. Implicit in Australia’s opposition is the idea of Japan as a strange land with customs that are not understandable to the West.

Ever since first contacts between Japan and the West in the 16th century, the West has always been fascinated by Japan, an obsession that increased when Japan closed its borders in 1638. Nevertheless the the only contact for over 200 years was through a small colony of Dutch traders and these were confined to live on the tiny island of Deshima in Nagasaki Bay.<sup>24</sup> After Matthew Perry’s US Naval expedition forced open Japan in 1858, full trade resumed, and a wave of “Japanomania” swept across Europe and America.<sup>25</sup> Japan’s meteoric rise to world power status in less than 50 years after the Perry expedition and its role as an aggressive power in the first half of the 20th century, and its rise as an economic superpower in the second half also contributed to the love hate relationship between Japan and the West. In addition, Japanese culture, such as the Samurai, ninja, Shintoism, cartoons, and its often mysterious nature has continued to fascinate and repel the west.<sup>26</sup>

<sup>22</sup> Animal Planet, “Why do the Japanese Hunt Whales?”, available online at <http://www.animalplanet.com/tv-shows/whale-wars/about-whaling/why-japanese-hunt-whales/>, accessed on January 31, 2015.

<sup>23</sup> Candice Gaukel Andrews, “Japanese Whaling: Truly for Sustainability Science, or Only for Cultural Consistency?” July 1, 2014, available online at <http://goodnature.nathab.com/japanese-whaling-truly-for-sustainability-science-or-only-for-cultural-consistency/>, accessed on February 2, 2014.

<sup>24</sup> Grant K. Goodman, *Japan: The Dutch Experience*, London: Athlone Press, 1986

<sup>24</sup> Lionel Lambourne, *Japonisme: cultural crossings between Japan and the West*, London: Phaidon, 2007, and Alexandra Curvelo, “Nagasaki/Deshima after the Portuguese in Dutch Accounts of the 17th Century”, *Bulletin of Portuguese-Japanese Studies*, 6, 2003: pp. 147–157.

<sup>25</sup> Among the books and movies that explore this complicated relationship are Michael Crichton, *Rising Sun*, or *Lost in Translation*, a 2003 American comedy-drama film written and directed by Sofia Coppola For a scholarly look see Keizo Nagatani, ed, *Japan and the West: the perception gap*, Aldershot: Ashgate, 1999.

In addition to a differing discourse regarding the whale, there are other pressures on Japanese policy-making. Japanese policy-making with regard to whales has addressed a domestic constituent rather than an international one. While Japanese whaling is a major issue in the West, contrary to popular ideas about the Japanese attitude to whaling, the issue is not a major political issue in Japan itself. The elite, rather than people, decide on the issue.

Thus the pro-whaling lobby in Japan is an elite-driven counter movement, where pro-whalers possess economic and symbolic resources, in the shape of knowledge and social prestige, making them a powerful force within Japanese domestic politics.<sup>27</sup> However the pro-whaling discourse is not universal in Japan.

The Japanese scholar Morikava takes a negative view of pro-whalers, arguing that they create political myths, manipulate public opinion, and exploit anti-whaling activities for their own purposes, leading to a domestic consensus in Japan that allows Tokyo's whaling policies to continue relatively unchallenged despite stockpiles of whale meat that remain unsold in Japanese warehouses.<sup>28</sup>

Once the opposition of Western nations such as Australia's is seen for what it is—a cultural discourse that is based on contested scientific evidence, it becomes easier to understand Japanese opposition to it.

### 1.2 The History of Australian Whaling

Australia is a stellar example of how a nation has been transformed from a whaling power to one of the most vociferous defenders of whales.<sup>29</sup> There is no record of aboriginal communities in Australia having been involved in whaling, but after colonization, Australia was a predominant whaling power. From the early 19th century through the 1960s, the Australian colonies (and later states) of Tasmania, South Australia, Victoria, New South Wales and Western Australia were engaged in whaling, sometimes very heavily, and established numerous onshore whaling stations.<sup>30</sup>

The decline of whaling populations as a result of overhunting, made all the more critical by the use of new technology such as harpoon guns, explosive harpoons and steam driven whaling ships led to a cata-

<sup>26</sup> Anders Blok, "Contesting Global norms: Politics of Identity in Japanese Pro-whaling Countermobilization", *Global Environmental Politics*, 8, 2, 2008: p. 46.

<sup>27</sup> Jun Morikava, *Whaling in Japan: Power, Politics and Diplomacy*, New York, Columbia University Press, 2009. Also Siobhan O'Sullivan, "Whaling in Japan: power, politics and diplomacy", *Environmental Politics*, 21, 1, 2012, pp. 184–186.

<sup>29</sup> For a summary of positions on the issue see Donald K. Anton, "Antarctic Whaling: Australia's Attempt to Protect Whales in the Southern Ocean." *British Columbia Environmental Affairs, Law Review* 36, 2009: p. 324 and Kalland, "Whale Politics and Green Legitimacy: A Critique of the Anti-whaling campaign", *Anthropology Today* (1993), pp. 3–7.

<sup>30</sup> Anton, p. 325.

strophic decline in whaling populations in the early 20<sup>th</sup> century. Whale protection for certain whale species commenced in the 1930s after the effects of whaling on whale populations became more apparent.

The Southern Right Whale was protected in Australian waters in 1935, after more than 26 000 individual whales had been taken in Australian and New Zealand waters between 1822 and 1930.<sup>31</sup>

Over 40,000 humpback whales were killed by whaling stations in Australia and New Zealand on their migrations from the Antarctic Ocean to the warm tropical waters north of Australia.<sup>32</sup> The hunting of humpback whales ceased in 1963, and from 1965 they were protected worldwide after recognition of a dramatic global decline in numbers. Commercial whaling continued in Australian waters on sperm whales with 16000 “taken from 1952 until the end of commercial whaling in 1978. Commercial whaling in Australia ceased in 1978 with the closure of Australia’s last whaling station, the Cheynes Beach Whaling Company, in Western Australia. In 1979 Australia adopted an anti-whaling policy, permanently ending whaling in Australian waters. At the same time Australia started to focus heavily on working towards the international protection and conservation of whales.”<sup>33</sup>

Thus, one of the most prominent of whaling countries, Australia, began shifting its whaling policy in 1978 to protect whales. In fact, by 1989 Australia was staunchly anti-whaling with an uncompromising “policy of complete protection for all whales”.<sup>34</sup> At present, it is in vanguard anti-whaling states, deploying a mix of municipal and international law, diplomacy, and policy instruments to promote a complete and permanent ban on all whaling.<sup>35</sup>

The country is passionately anti-whaling. Australia’s contention, rooted in the Western perception of whales as a species that needs to be protected, has roots in the popular idea that the decline of the 19<sup>th</sup> century whaling industry in America<sup>36</sup> was due to over hunting. This is

<sup>31</sup> Government of Australia, Department of the Environment, “History of Whaling in Australia”, <http://secure.environment.gov.au/coasts/species/cetaceans/international/history.html>, consulted on August 24, 2014.

<sup>32</sup> Government of Australia, Department of the Environment, “History of Whaling in Australia”, <http://secure.environment.gov.au/coasts/species/cetaceans/international/history.html>, consulted on August 24, 2014.

<sup>33</sup> Government of Australia, Department of the Environment, “History of Whaling in Australia”, <http://secure.environment.gov.au/coasts/species/cetaceans/international/history.html>, consulted on August 24, 2014.

<sup>34</sup> Anton, “Antarctic whaling”, 2009, p. 324.

<sup>35</sup> Anton, “Antarctic whaling”, 2009, p. 326.

<sup>36</sup> Howard I. Kushner, ““Hellships”: Yankee Whaling along the Coasts of Russian-America, 1835–1852”, *New England Quarterly*, 1972, pp. 81–95.

even though the historical evidence on the impact of whaling on whale populations is unclear. In fact, some argue that contrary to popular perception, declines in whaling populations had little to do with the decline of the American whaling industry.<sup>37</sup> Hilt argues that it was not over fishing but the structure of the American whaling industry in the 1830s, when whaling was a prosperous American industry, it led to the decline of the industry. He looks at the failure of corporations in the American whaling industry and argues that the corporate form was unable to create the incentives requisite for sustenance.

This, rather than any overhunting was the reason why the American whaling industry decline. As seen previously there were other reasons for the decline of the American whaling industry, most importantly the discovery of oil. Such perspectives are important as the challenge the core assumption behind the Western discourse on whaling: that whaling will lead to the extinction of the whale. However, this view of the whale as a species in danger of extinction that needs support is very popular in Australia.

### 1.3 The Global Discourse on Whales and Whale-Eating

It is crucial to recognise the power of words, ideas, norms, and discourse in determining outcomes in the global arena.<sup>38</sup> Therefore, the transformation of the whaling dispute is a good case study for an analysis of how changing norms in international environmentalism have affected international agreements. It also is a good case study to look at how non state actors such as environmentalists can considerably influence international decision making. This is the key reason why this thesis looks at the dispute between Australia and Japan, rather than that between Australia and Iceland or Norway.

The debate over whaling also reflects environmental politics that revolve around animals seen as beautiful and iconic such as whales, dolphins, elephants, tigers, and pandas.<sup>39</sup> With emotive values attached the clash between an instrumentalist approach to hunting which emphasises preservation and sustainability and a preservationist approach that sees such “cute” animals as possessing intrinsic values and rights become very vicious. Endangered species protection represents one of the most enduring paradigms of global environmental governance. Howev-

<sup>37</sup> Lance E. Davis, Robert E. Gallman, and Teresa D. Hutchins, “The Decline of U.S. Whaling: Was the Stock of Whales Running Out?”, *The Business History Review* 62, 4, 1988, pp. 569–595.

<sup>38</sup> Charlotte Epstein, *The Power of Words in International Relations: Birth of an Anti-Whaling Discourse*, Cambridge: University of Cambridge, 2005.

<sup>39</sup> Tom Spears, “Cute Animals More Likely to Be Saved than Ugly Animals”, *National Post* www.nationalpost.com, N. p., 23 Apr. 2012, accessed Web. 15 Apr. 2014.

er, as Epstein points out, it was predominately North American conceptions of nature, which defined how global standards were defined.<sup>40</sup>

This section will look at the underlying discourse behind the current whaling dispute. In essence, if the discourse around whaling had not been transformed from seeing the whale as a resource to seeing the whale as an endangered species, there would be no controversy over whaling, or disputes over the IWC. At present, public debates about whaling and the discourses of the pro-whalers and the anti-whalers are strongly influenced by moral consideration which explains why the issue is so emotional.

There were many reasons for the transformation of the discourse. Material interests in whaling had declined, Western norms about whaling were changing and it was seen as a species that needed protection, and the new game in town was environmentalism. A ban on the hunting of whales, now transformed into a lovable creature, was more in line with late 20th century concerns. This new concern led to the creation of new NGOs that have become a very influential part of the discourse around whaling, even making nations such as Australia “environmental states.” Thus was born the binary division of “pro-whaling” or “anti-whaling”. While anti-whaling activities are seen as commendable, whaling is seen as something to be condemned.

Whales are gentle human-like creatures being hunted to extinction by cruel Japanese fishermen.<sup>41</sup> It is this view that has become the legal norm, especially in the IWC. The power of the anti-whaling movement comes from the fact that the movement is seen as the defence of nature. Thus the whaling issue one of the most prominent environmental issue of our times. However, the roots of this consciousness are firmly rooted in Western, especially the North American, tradition.

Sato and Harita<sup>42</sup> argue that in Japan the Western discourse is seen as hegemonic and rooted in Western cultural norms rather than contested evidence on the endangerment of whales. There are very few books in English on whaling in Japan. One of the leading authorities on international environmental politics with reference to whaling is from Norwegian scholar Arne Kalland<sup>43</sup> who believes that the whaling dispute is a conflict between two opposing views of the environment rather than a clash between idealistic activists and callous hunters. At present, public debates about whaling and the discourses of the pro-

<sup>39</sup> Epstein, “The Making of Global Environmental Norms: Endangered Species Protection”, *Global Environmental Politics* 6, 2, 2006, 32.

<sup>41</sup> For a representative sampling of such viewpoints see <http://www.seashepherd.org/>, and [www.greenpeace.org](http://www.greenpeace.org), accessed on January 15, 2014.

<sup>42</sup> Sato Yoichiro, and Keiko Hirata, eds., *Norms, Interests, and Power in Japanese Foreign Policy*, Palgrave Macmillan, 2008.

<sup>43</sup> Arne Kalland, “Whale Politics and Green Legitimacy: A Critique of the Anti-Whaling Campaign.” *Anthropology Today*, 9, 6, 1993, p. 4.



whalers and the anti-whalers are strongly influenced by moral considerations. This is why the issue is so emotional.

Most transnational whale protection NGOs, most notably Greenpeace have created an image of whales as almost sacred, or what Kalland<sup>44</sup> calls “the Super Whale myth.” This is an image of “the whale” as an endangered, friendly giant, an intelligent, curious, socially complex animal—even a good singer, with reference to the famous humpback whale song. While there are more than eighty species of whales, the “super whale” brings together traits found in a number of species. Thus the whale’ is the largest animal on earth (this applies to the blue whale); it has the largest brain on earth (the sperm whale); has a large brain-to-body-weight ratio (the bottlenose dolphin); sings nicely (the humpback whale); has nurseries (some dolphins); is friendly (the grey whale); is endangered (the blue and right whales) and so on.<sup>45</sup> This is the whale that environmentalists in the west and the Australian government appeals to. It does not exist in reality.

Kalland argues that anti-whalers have engaged in “theft” of the consumption of whales in three ways: by directly interfering with whaling efforts; by organising boycotts of whale products and of corporations linked to whaling; and by creating a discourse around the barbarity of whale consumption. She asserts that what anti whalers have done is to replace the commodity cycle for whalers, with a different way of exploiting a mythical creature, based on an amalgamation of the desirable characteristics of whales, or “the Super Whale”. This consumption includes tourism, the personification of whales and the vociferous adoption and support of whales.<sup>46</sup> However, while this argument is feasible, it does not have the emotional appeal of warning against the killing of a species that is almost extinct, nor the moral guilty of killing almost human-like whales.<sup>47</sup>

Kalland argues that distinctions between the 80-plus species of whales have been forgotten and all whales are seen as almost human. Anti-whaling lobbies are often supported by conservation-minded biologists. Thus whales are no longer fish or even mammals, but beings with a moral standing and rights that are, if not equal to, then at least resembling that of humans. There are differences between the various

<sup>44</sup> Kalland, “Whale Politics”, *Anthropology Today*, 9, 6, 1993, p. 4.

<sup>44</sup> Kalland, *Unveiling the Whale: Discourses on Whales and Whaling*, New York: Berghahn Books, 2009, p. 24.

<sup>46</sup> See Review of Steven B. Rothman, *Unveiling the Whale: Discourses on Whales and Whaling*, *Global Environmental Politics* 01/2011, [http://www.researchgate.net/publication/241895008\\_Unveiling\\_the\\_Whale\\_Discourses\\_on\\_Whales\\_and\\_Whaling\\_%28review%29](http://www.researchgate.net/publication/241895008_Unveiling_the_Whale_Discourses_on_Whales_and_Whaling_%28review%29), accessed April 15, 2015.

<sup>47</sup> Forest L. Grieves, “Leviathan, the International Whaling Commission and Conservation as Environmental Aspects of International Law”, *The Western Political Quarterly*, 1972, p. 724.

groups, but ideas about animal welfare and rights have been strongly influential on the anti-whaling norm. Killing whales is seen as a barbaric and cruel act done by brutal hunters.

This has led to a transnational food taboo on whale meat with whale-eating implicitly linked to cannibalism given the almost human-like status that whales have in the anti-whaling discourse (see Appendix, Image 3). Thus mental and animal rights movements, she argues, make use of totemic systems of thought, by which mankind is divided into two opposing categories: those who care for the earth and the future versus those who seek short-term profit. In this world-view, whales serve as totem for “nature-loving” people and money as a totem for “greedy” capitalists, represented by the whalers, who are depicted as evil, blood-thirsty barbarians.<sup>48</sup>

At the core of the issue she argues is a “metonymic relation to nature”<sup>49</sup> or in other words whales are seen as representing nature, and whale hunting as representing man’s destruction of nature. Thus whales become metaphors for a pristine nature that is threatened by modernisation. Kalland also points to contradictions within the anti-whaling movement itself. Cruelty to animals is not confined to Japan.

Whale-eating is taboo while industrial practises of animal breeding in the West also cause a lot of suffering to animals. In the same way, whale-hunting is a crime while fox hunting in Britain is not.<sup>50</sup>

However, whale-eating and whale hunting also cannot be merely reduced to hunting a certain species. It must be seen as part of a complex cultural paradigm. Such practises have ceremonial significance among cultures. For example, the Iñupiat of Arctic Alaska identifies themselves as the “People of the Whales”. In a climate that was unsuitable for agriculture the flesh of the endangered bowhead whale (*Balaena mysticetus*) which is high in vitamins and other components was very important. The bowhead whale is crucial to Iñupiat life and culture with ceremonial meaning given to the hunting process, the communal distribution of meat and other body parts, and rituals that sustain their cultural well-being, which Sakakibara<sup>51</sup> calls the Iñupiat whaling cycle. She shows that whale hunting is not merely an occupation but part of a complex social and emotional process that allows the Iñupiat to communicate with the whales. With regard to whaling, the rituals that Japanese whalers have are similar to that of the Iñupiat. There are specific-

<sup>48</sup> Kalland, “Whale Politics”, 1993, pp. 4–5.

<sup>49</sup> Kalland, *Unveiling the Whale*, p. 3.

<sup>50</sup> For a discussion of the various provisions to prevent cruelty to animals in national and international law see Alexander. Gillespie, *Whaling Diplomacy: Defining Issues in International Environmental Law*, Cheltenham: Edward Elgar Publishing, 2005, 152–154.

<sup>51</sup> Chie Sakakibara, “Kiavallakkikput Agviq (Into the Whaling Cycle): Cetaceousness and Climate Change Among the Iñupiat of Arctic Alaska”, *Annals of the Association of American Geographers*, 100, 4, 2010, pp. 1003–1012.

ly Japanese ways of honouring whales such as “offering a service” (kuyoo) to dead animals, encouraging an attitude of respect for their contribution to research, all of which stem from the Buddhist or Shinto religion in Japan.<sup>52</sup> The truth of the matter is that a lot of the whaling issue stems from the fact that “whales have been turned into a totem for many people in the Western world”.<sup>53</sup> Crucially, the symbolism of the whale has become useful for identity politics in the West and Japan. Subsequent chapters will look at this.

Kalland argues that not “all whale species are at the brink of extinction, but that whales have become important symbols to both pro- and anti-whaling factions and can easily be appropriated as the common heritage of humankind”.<sup>54</sup> Her book<sup>55</sup> looks at how people communicate about whales and whaling and looks at why some issue gain prominence while others don’t, and how such knowledge is produced. She argues that the anti-whaling discourse “is hegemonic in much of the Western world<sup>56</sup> which means that the idea that whales are special and that they are in danger is accepted without question in much of Europe and North America. This has triggered a backlash among policy-makers which is why anti-whaling norms are rejected in Japan.<sup>57</sup>

This change, from the pro whaling discourse of the early 20th century to the anti-whaling discourse of today mirrored other environmental trends. For example, Blok<sup>58</sup> argues that a universalistic scientific discourse breaks down in situations of deep conflict over global nature. Looking at the Japanese whaling industry and the international whaling regime since the 1970s, he looks at how science has become a “post-sovereign” authority. Blok’s view has roots in the idea that any issue has a multiplicity of viewpoints and one definition of nature cannot be privileged over another. He looks at how the Japanese and Western versions of whales are mutually irreconcilable and are based on notions of superiority, especially in the case of the West. As Blok points out, “anti-whaling campaigners have turned whales into rights-bearing persons, sacred human-like creatures, whose killing is immoral and uncivilised.”<sup>59</sup>

<sup>51</sup> Casper Bruun Jensen and Blok, “Techno-animism in Japan: Shinto cosmograms, actor-network theory, and the enabling powers of non-human agencies”, *Theory, Culture & Society*, 30, no. 2, 2013, pp. 84–115.

<sup>53</sup> Kalland, “Whale Politics”, 1993, pp. 3–7.

<sup>54</sup> Kalland, *Unveiling the Whale*, 2009. Cited from Book Description on JSTOR <http://www.jstor.org/stable/j.ctt9qd9tk>, accessed 15 April, 2014.

<sup>55</sup> Kalland, *Unveiling the Whale*, 2009.

<sup>56</sup> Kalland, *Unveiling the Whale*, p. 24

<sup>57</sup> Blok, “Contesting Global Norms”, p. 46.

<sup>58</sup> Blok, “Contesting Global Norms”, 2008, pp. 39–66.

<sup>59</sup> Blok, “Contesting Global Norms”, p. 32.

Those who support whaling have been thus forced into a reactive mode. Increasingly, pro-whaling arguments have been based on anger at the “bullying” ways of the anti-whaling community. Such mobilization has included arguments of nationalism, identity, cultural rights, and differences in ethical ideas. Thus the challenge is to “global” environmental norms that have roots in how the Western perception of whales.

However, reality is much more complex than the anti-whaling or the pro-whaling argument. This partly explains why the whale is a potent symbol of identity politics both in Japan and the West, especially Australia. For the anti-whaling lobby the argument against whaling is simple. Whales are endangered by whaling. However, the scientific evidence on this is contradictory. While some types of whales are certainly endangered others have seen their populations grow. In fact, the increase in whale populations, as the chapter on Japanese identity politics will show, has been a crucial element in arguments against blanket bans on whale hunting.

Such divisions are reflected in the literature on the topic. Broadly the literature can be divided into a “global” approach that focuses on inter-state agreements such as the Convention on International Trade in Endangered Species (CITES, 1975)<sup>60</sup>, and institutions such as the IWC. The whaling issue has also been approached from a political science perspective as a clash between actors and norms. This approach stresses the legal political aspects of the IWC “governance regime”.<sup>61</sup> This division between the global and the local can also be seen in the way the issue has been approached in Japan. Most literature on whaling in Japan focuses on Japanese whaling policy and diplomacy<sup>62</sup>, while some literature looks at the identity politics that pro-whaling counter mobilisation in Japan has created.<sup>63</sup>

At the other end of this range are more specialised studies where anthropologists have focused on “whaling cultures”.<sup>64</sup> From the perspective of global studies most of the literature falls into the first category. While anthropological studies are fascinating they are usually too specialised to create a globalised discourse though they introduce valuable perspectives to the debate. In between this global and local approach

<sup>60</sup> David S. Favre, *International Trade in Endangered Species: A Guide to CITES [Convention on International Trade in Endangered Species]*. Amsterdam: Brill, 1989.

<sup>61</sup> Oran R. Young, et al. “Subsistence, Sustainability, and Sea Mammals: Reconstructing the International Whaling Regime”, *Ocean & Coastal management*, 23, 1, 1994: pp. 117–127.

<sup>62</sup> Blok, “Contesting Global Norms”, 2008, pp. 39–66.

<sup>63</sup> Morikawa, 2009.

<sup>64</sup> For example, see Rob Ginkel, *Coastal Cultures: An Anthropology of Fishing and Whaling Traditions*, Apeldoorn, Het Spinhuis, 2007; James R. McGoodwin, *Understanding the Cultures of Fishing Communities: A Key to Fisheries Management and Food Security*, Rome: FAO, 2001; Charlotte Epstein, “WorldWideWhale. Globalisation/Dialogue of Cultures?” *Cambridge Review of International Affairs*, 16, 2, 2003, pp. 309–322.

are various organisational and discursive processes which have been looked at by some authors.<sup>65</sup> Scholars have also sought to shift attention away from “hard” institutions such as the IWC, and instead look at the role norms play in transnational environmental policy making.<sup>66</sup>

Another approach to the question is that of political ecology which looks at the various actors that play a role in the creation of environmental policy. This type of literature uses political science to identify norms that inspire the anti-whaling movement. Grieves<sup>67</sup> was one of the first of many social scientists who began to look at the legal and political dimensions of trying to cope with an international conservation problem. Thus, the whale then became the symbol of the ability of international legal mechanisms, not only to protect the whale, but more broadly to deal with international conservation.

The need to preserve natural resources and the need to exploit them for human needs summarizes the tension of environmentalism. In fact, the first environmental conservation efforts grew out of this dynamic. The protection of endangered species and the need to protect them were environmental issues long before degraded air; soiled seas or devastated forests were on the agenda. The most significant contribution of this was that, for the first time, it brought states together to develop collective policies to protect rather than merely exploit nature.

This was a major shift from a tradition of international relations that was driven by the appropriation of land and the exploitation of resources. In fact, as Epstein points out, “Endangered species protection effectively constituted the first category of global environmental policy making” and for the first time created “a space of inter-state interactions ... that had preservation of the environment as its goal”.<sup>68</sup> Whales were very important in radicalising the new collective duty of states to protect, leading to the ban on whaling which was the first complete suspension of a commercial activity worldwide. Endangered species protection, such as the Endangered Species Trade Regime, the Ramsar Wetlands Regime, the Antarctic Regime, and the International Whaling Commission (IWC) became symbols of this new determination to care for the environment.<sup>69</sup>

<sup>65</sup> Brian Trevor Hodges, “The Cracking Facade of the International Whaling Commission as an Institution of International Law: Norwegian Small-Type Whaling and the Aboriginal Subsistence Exemption”, *The Journal of International Environmental Law and Litigation*, 15, 2000, p. 295.

<sup>66</sup> Michelle Parker, “Harpoons or Heroes: The International Whaling Commission Treads Icy Water over the Ban on Commercial Whaling”, *New England Journal International & Competitive Law*, 18, 2012, pp. 445; Blok, “Contesting Global Norms”, 2008, pp. 39–66.

<sup>67</sup> Grieves, “Leviathan”, pp. 711–725.

<sup>68</sup> Epstein, “The Making”, p. 32.

<sup>69</sup> Epstein, “The Making”, pp. 32–54.

The “Save the Whale” campaign began as an initiative of US-based non-governmental organizations, including Friends of the Earth, Project Jonah, and Greenpeace. In essence it was easy to make the whale a symbol of the environmental movement as it did not threaten powerful interests in the United States. The problem with this approach was that it privileged one approach over all others. This was ironic for, as Blok points out, given the hegemony of science in global environmental governance, the near-universal acceptance of sustainability norms, and the relative “countability” of whales, reaching some stable international agreement would seem feasible.<sup>70</sup>

The whaling issue was also one of the first issues that demonstrated the power of non-violent protest to mount pressure to change state policy, a tactic that several environmental organisations, most notably Greenpeace, have made part of their campaign. When the IWC passed its ban the Soviet Union was also active in whale hunting. This led to radical environmentalists using non-violent methods, including direct physical confrontation on the high seas between Greenpeace and Soviet whaling ships. This tactic continues to be used by radical environmental groups such as the People for the Ethical Treatment of Animals (PETA) to highlight issues. Such dramatic conflict between private lobbying groups and nations, some argue, is more effective in achieving environmentalist objectives than the more traditional government-to-government negotiations.<sup>71</sup>

#### 1.4 The Emergence of a Legal-Political Anti-Whaling Position

However, the focus of this thesis is on the International Whaling Commission (IWC). Therefore this section of the thesis will examine the change in discourse that made the IWC change from a pro-whaling convention to an anti-whaling one. With reference to this it is crucial to consider that though the whaling industry was worth millions in the 19th century there were no conventions regarding the need to limit the hunting of whales. The industry was dominated by small players and attempts to convert it into a corporate structure failed.<sup>72</sup> In fact, even during the Golden Age of American whaling, 1835-1855, when Yankee whalers made their greatest profits along the north-west coast of Russian-America, the industry had little influence on legislation or national policy during this period.<sup>73</sup>

<sup>70</sup> Blok, “Contesting Global Norms”, 2008, pp. 39–66.

<sup>71</sup> Robert Mandel, “Transnational Resource Conflict: The Politics of Whaling”, *International Studies Quarterly* 24, 1, 1980, pp. 99–127.

<sup>72</sup> Eric Hilt, “Incentives in Corporations: Evidence from the American Whaling Industry”, *National Bureau of Economic Research Working Paper Series* No. 10403, 2004.

<sup>73</sup> Howard I. Kushner, ““Hellships”: Yankee Whaling Along the Coasts of Russian-America, 1835–1852”, *New England Quarterly*, 1972, pp. 81–95.

There was no sense of a crisis about the overhunting of whales, and the idea of whales were a species deserving of protection that is at the core of contemporary environmental legislation had not caught on. In fact, the first impetus for regulation on the whaling industry was the result of the idea that whales were being overhunted. The key idea, common to many early animal conservation efforts, was to preserve the species for future hunters. Talks began in the late 1920s, but an agreement had to wait until the 1940s.

The International Convention for the Regulation of Whaling (ICRW) was set up at an international conference in Washington in 1946 and came into force in 1948. By 1950, 16 nations had ratified the convention. The International Whaling Commission (IWC) held its initial meeting in 1949. The IWC began as a means to ensure that whale hunting would be sustainable, and not as a means of saving whales. The IWC, unlike its present form, did not have a conservation agenda at the beginning. It was formed to prevent the over hunting of whales, but regulations were loose and quotas were high. Ironically, what began as a “whaling club”, completely dominated by the short-term interests of the whaling industry, is now at the forefront of attempts to make the world whaling-free. In fact, as Skodvin and Andresen point out, “few international organizations have undergone more dramatic changes than the IWC.<sup>74</sup> Ironically, the commercial ban on whaling by the IWC seems to have had little effect on the actual hunting of whales. In fact, through the 2004-05 season, an 18-year period, over 6800 Antarctic minke whales were taken in Antarctic waters under Japanese Whale Research Program under Special Permit in the Antarctic (JARPA); a very large number when compared to a total of 840 whales taken globally by Japan for scientific research in the thirty-one year period prior to the IWC commercial whaling moratorium<sup>75</sup> (Appendix, Image 1).

Thus, despite the ban, going by numbers alone, more whales were hunted than before the ban came into effect. However, reality is much more complex than the anti-whaling or the pro-whaling argument. This partly explains why the whale is a potent symbol of identity politics both in Japan and the West, especially Australia.

The transformation of the IWC to a whale protecting body from a whale hunting body began in the 1970s when environmental scientists had greater input into its decision making process. In addition, in the 1970s and the 1980s, international environmentalism exploded, and whales, already seen as attractive mammals were the ideal vehicle to convey the message of environmental degradation and the need to protect it. The whaling industry has come full circle now. The only whaling

<sup>74</sup> Tora Skodvin, and Steinar Andresen, “Nonstate Influence in the International Whaling Commission, 1970–1990”, *Global Environmental Politics* 3, 4, 2003, p. 62.

<sup>75</sup> Anton, “Antarctic whaling”, 2009, p. 319.

that the IWC permits is aboriginal subsistence whaling, and very restricted exceptions under the norm of “research whaling” for Japan, Iceland and Norway.<sup>76</sup> The dispute over lethal research whaling is at the heart of the current dispute between Japan and Australia. This is despite the fact that there are several whaling traditions. Even the IWC recognises three major types of whaling. Indigenous people are allowed, for cultural reasons, to continue whaling. This has been termed “aboriginal subsistence whaling”. Second there is a small-scale coastal-based commercial whaling in Norway. However, the main issue is the third kind of whaling, so-called “scientific whaling” done by the Japanese. This has been the target of Western NGOs and governments, which in turn has allowed the Japanese government to paint the conflict as a clash between Japanese and Western values.

The lines of the whaling debate are also unclear. Unlike other environmental issues which usually pit non state actors like NGOs against governments, with other actors such as lobbying and industry groups involved, the whaling issue is more complicated.

There are NGOs that support whaling and those that do not. Major environmental NGOs in Norway, including the largest (Naturvernforbundet) connected to the Norwegian chapter of the Worldwide Fund for Nature (WWF) support sustainable minke whale catching. On the other hand, other Western NGOs have been vociferous in their opposition to whaling. Thus, the whaling issue goes beyond questions of ecology and sustainability.<sup>77</sup>

This anti-whaling spirit was institutionalised in 1982, when a three-fourths majority of IWC member states voted to halt all commercial whaling, effective 1986, for ten years. The United States and environmental NGOs such as Greenpeace played a big role in this.<sup>78</sup> The ban met with opposition from the three whaling nations of Iceland, Norway and Japan. By 1992, Norway and Iceland had led the way in forming the North Atlantic Marine Mammal Commission (NAMMCO), a regional institution serving largely as a platform for challenging the IWC-sponsored moratorium.<sup>79</sup> However, since Japan, an Asian player is dramatically different from the West, unlike Norway; the issue was much more complicated. Without an understanding of this cultural back-

<sup>76</sup> For a detailed and up to date description of permits see the web page of the IWC especially I. W. C. (2014). “Scientific Permit Whaling”, retrieved December 3, 2014, available at <http://iwc.int/permits>.

<sup>75</sup> Kalland, *Unveiling the Whale: Discourses on Whales and Whaling*, New York: Berghahn Books, 2009, ix; and Ander Blok, “Contesting Global Norms: Politics of Identity in Japanese pro-Whaling Countermobilization”, *Global Environmental Politics* 8, 2, 2008, pp. 48.

<sup>78</sup> For more on this see Jennifer L. Bailey, “Arrested Development: The Fight to End Commercial Whaling as a Case of Failed Norm Change”, *European Journal of International Relations*, 14, 2 (2008): pp. 289–318.

<sup>79</sup> Blok, “Contesting Global Norms”, 2008, pp. 39–66.



ground it is difficult to understand the case. Japan is markedly different, and often Japanese fishermen have been portrayed as brutal and callous, a categorization that is not evident in the way Norwegian or Icelandic fishermen are portrayed. In fact, because of its different culture, “the burden of constructing the moral case for a pro-whaling campaign has fallen heavily on Japanese actors”.<sup>80</sup> Moreover, with regard to international law, Australia’s position goes beyond that normally accepted. At the core of Australia’s attempt to protect whales are its unilateral actions in the Antarctic Southern Ocean, considered international waters by most nations.

<sup>80</sup> Blok, “Contesting Global Norms”, p. 42.

### 1.5 Cultural Norms Regarding Whaling

Whaling is a very emotive issue both in Japan and the Western world.<sup>81</sup> The radically different perception of whaling has led to regular confrontation between Japan and other countries. Japanese pro-whaling discourses stress the existence of abundant and “killable” whales, while the “universalistic” Western discourse stresses the danger that whales are in.<sup>82</sup>

Japanese challenges to the existing regime have deep roots in the Japanese way of living. Central to this are different conceptions of ethics. The Japanese conception of ethics has more to do with a balance between nature and man, rather than the Judeo-Christian concept that sees the environment as separate and a subject of man’s action. The key difference is that in Japan nature is not seen as separate from man. Japan has been described as a land of Shinto-infused “techno-animism”: exhibiting a “polymorphous perversity” that resolutely ignores boundaries between human, animal, spiritual and mechanical beings.<sup>83</sup> In such an approach the Japanese are similar to other cultures such as the Amerindians, the Chinese, the Papua New Guineans that have “across natures” or in other words do not see clear distinctions between man and nature.<sup>84</sup>

Japan insists that whales are not in any immediate danger of extinction. Western discourses stress the similarities that whales have with humans. They mate belly to belly, breast feed their young, and are depicted as living in societies that are similar to human beings such as in families. They are also depicted as thinking and feeling as human beings. This is in spite of the fact, argues Kalland that the image of an intelligent, family oriented and communicative whale is contested and rests on a highly selective reading of evidence.<sup>85</sup> On the other hand, Japanese perceptions of the whale do not have these elements. The Japanese see the whale as a fish, rather than as a mammal.<sup>86</sup> Kalland argues that whaling has given rise to a particular culture in Japan, and that the whaling issue reflects perceptions that this culture is threatened.<sup>87</sup> The Japanese position on whaling also reflects the peculiar way in

<sup>81</sup> “U.N. Court Orders Japan to Halt Whaling Off Antarctica”, *NYT*, 31 March 2014.

<sup>80</sup> Blok, “War of the Whales: Post-Sovereign Science and Agonistic Cosmopolitics in Japanese-Global Whaling Assemblages”, *Science, Technology, & Human Values*, 36, 1, 2011, pp. 55–81.

<sup>81</sup> Casper Bruun Jensen and Blok, “Techno-animism in Japan: Shinto cosmograms, actor-network theory, and the enabling powers of non-human agencies”, *Theory, Culture & Society*, 30, 2, 2013, pp. 84–115.

<sup>84</sup> Brunn and Blok, “Techno-animism in Japan”, 2013, pp. 84–115.

<sup>85</sup> Kalland, *Unveiling the Whale*, 2009, p. 43.

<sup>84</sup> Andrew R. Miller, and Nives Dolšak, “Issue Linkages in International Environmental Policy: The International Whaling Commission and Japanese Development Aid”, *Global Environmental Politics* 7, 1, 2007, p. 70.

<sup>87</sup> Kalland, *Japanese Whaling? : End of an Era*, Routledge, 2013.

which Japan has approached environmental issues, perhaps a reflection of a different ethical order.<sup>88</sup>

In an insightful book into Japanese policy, Kagawa-Fox<sup>89</sup> argues that the Japanese have a different conception of the environment, and holds that Western philosophers have contributed to the creation of a “Western environmental ethics code”. She argues that there is a unique “Japanese environmental ethics code” built on Japan’s cultural traditions, religious practices, and empirical experiences.

This goes a long way towards explaining why Japan, which has been at the forefront of the battle against other environmental challenges such as climate change is adamant in its insistence that whaling must continue. Thus, while the West sees the ban as conservation, the Japanese see it as cultural imperialism.

<sup>88</sup> For this argument see “Techno-animism in Japan”, 2013, pp. 84–115.

<sup>89</sup> Kagawa-Fox Midori, *Ethics of Japan’s global environmental policy: the conflict between principles and practice*, Routledge, 2014.

## 2 Instruments: International Whaling Commission (IWC)

The first attempts to regulate whaling was at the League of Nations which expressed concern over the lack of international regulations regarding whaling, first in 1924 and then in 1927.<sup>90</sup> International efforts to regulate whaling lagged behind national ones. The first country to regulate whaling was Norway, still a whaling nation. The Norwegian Whaling Act of 1929<sup>91</sup>, which created several important bodies. The Act established the Hvalrdd (Whaling Council) to advise the government on whaling regulations, the Statens Institute for Hvalforskning (State Institute for Whale Research) to aid the Whaling Council with scientific research (conducted in cooperation with whaling companies), and the internationally known Komiteden for Internasjonale Hvalfangstatistikk (Bureau of International Whaling Statistics, located in Sandefjord, Norway)<sup>92</sup> to act as a clearing house of whaling statistics for all nations engaged in pelagic and coastal whaling. The major work of the latter agency is the annual compilation and publication of the International Whaling Statistics. Internationally movement was slow.

The Assembly of the League of Nations obtained the approval of twenty-six nations on September 24, 1931, for an International Convention for the Regulation of Whaling, but with little effect.<sup>93</sup> On January 18, 1936, the Geneva Convention was accepted by many whaling countries, only to be superseded the following year by the so-called

<sup>90</sup> World Wildlife Fund, A History of the International Whaling Commission, “Where did the Idea of the International Whaling Commission come from and Why?” available online at

[http://wwf.panda.org/what\\_we\\_do/endangered\\_species/cetaceans/cetaceans/iwc/history/](http://wwf.panda.org/what_we_do/endangered_species/cetaceans/cetaceans/iwc/history/), accessed on January 22, 2015.

<sup>91</sup> Hodges, Brian Trevor, “Cracking Facade of the International Whaling Commission as an Institution of International Law: Norwegian Small-Type Whaling and the Aboriginal Subsistence Exemption”, *The Journal of Environmental Law and Litigation*, 15, 2000, p. 295.

<sup>92</sup> John Tønnessen and Arne O. Johnsen, *The History of Modern Whaling*, Berkeley: University of California Press, 1982.

<sup>93</sup> League of Nations, International Convention for the Regulation of Whaling. September 24, 1931, available online at

<http://www.loc.gov/law/help/us-treaties/bevans/m-ust000003-0026.pdf>, accessed on January 22, 2015.

“London Conference” and the signing of the International Agreement for the Regulation of Whaling on June 8, 1937.<sup>94</sup> The primary regulations of the Convention concerned (a) opening and closing dates for whaling seasons, (b) minimum size limits and (c) complete protection for Gray and Right Whales. There were subsequent meetings with protocols to the London Agreement being added in 1938 and 1945. During World War II whaling went into eclipse. The defeat of Germany and Japan meant that there was hope that the whaling industry would be regulated as neither country had been active in earlier agreements. On December 2, 1946, the International Convention for the Regulation of Whaling<sup>95</sup> was signed in Washington, D.C., by fifteen nations. This was the first attempt to regulate whaling.<sup>96</sup> It is significant that the IWC was designed to “establish a system of international regulation” for the management of whales. The emergence of whales as the preferred symbol of the environmental movement is a relatively recent phenomenon. Prior to the 1960s there was hardly any idea of whales as an endangered species.

The legal-political climate reflected this. CITES restricted whale product exports, and the IWC changed over time. A “whalers club” until the early 1960s, it became a “whale preservation club”.<sup>97</sup> This led to the creation of whaling sanctuaries. At present there are two Sanctuaries are currently designated by the International Whaling Commission, both of which prohibit commercial whaling. The first of these, the Indian Ocean Sanctuary<sup>98</sup> (see Appendix, Image 5), was established in 1979, after being proposed by the tiny Indian Ocean island of Seychelles, the 31st IWC Annual Meeting, the first meeting for the tiny Indian Ocean state as an IWC member, partly in order to protect whales in their breeding grounds. It became effective on the same year and was established initially for a period of ten years. The Indian Ocean Sanctuary (IOWS) was renewed in 1989 for another three years and indefinitely in 1992, and was subject to further review in 2002, when a proposal

<sup>94</sup> Government of Australia, Department of Foreign Affairs and Trade, Canberra, Australian Treaty Series 1946 No 10, International Agreement for the Regulation of Whaling, London, 8 June 1937, available online at <http://www.austlii.edu.au/au/other/dfat/treaties/1946/10.html>, accessed on December 29, 2014.

<sup>95</sup> International Whaling Convention, Key documents, *The International Whaling Convention*, available online at <https://iwc.int/convention> accessed on January 2, 2015.

<sup>96</sup> Tønnessen and Johnsen, *The History of Modern Whaling*, 1982, p. 448.

<sup>97</sup> Blok, “Contesting Global Norms”, p. 42.

<sup>98</sup> International Fund for Animal Welfare, “IFAW Summary Briefing: Indian Ocean Whale Sanctuary” available online at <http://www.ifaw.org/sites/default/files/Indian%20Ocean%20Whale%20Sanctuary.pdf>, accessed on January 10, 2015.

to abolish it was rejected by the Commission. Japan could not raise the required three quarters majority for it to be overturned.<sup>99</sup>

This was in response to Japanese whaling efforts in the Indian Ocean. For many years the IWC's ban on factory ship whaling for baleen whales north of 40°S gave partial protection for whales in the Indian Ocean, but as whales in the Antarctic became scarcer, Japanese scouting vessels began to prospect in the Indian Ocean.

"Between 1977 and 1979, Japan caught hundreds of Bryde's whales in the Indian Ocean for supposed scientific purposes, and repeatedly tried to have the restrictions on factory ship whaling lifted, until the Sanctuary came into effect in 1979. Plans to establish land-based whaling stations in Indian Ocean countries were shelved when the Sanctuary was adopted. From the 1960's until 1978, thousands of sei whales were taken by factory ships in the Indian Ocean Sanctuary area near the southern boundary at 55°S. The fleets of the USSR in the 1970's also took thousands of sperm whales, including females and family groups, in the Indian Ocean north of 40°S until the Sanctuary came into effect in 1979."<sup>100</sup> The success of the effort spurred other efforts to combat whaling. The role of the IWC was recognized at the the First United Nations Conference on the Human Environment (*UNCHE*) was held in Stockholm, Sweden from June 5 to June 16, 1972, and the 1982 United Nations Law of the Sea Conference (*UNCLOS*). Article 65 of *UNCLOS* stated: "States shall co-operate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organisations for their conservation, management and study".<sup>101</sup> In 2001, both the United States and Japan put forward a resolution which recognized that "the IWC is the universally recognized international organization with competence for whale stocks".<sup>102</sup>

Another regional International Organisation (IO) that deals with whales is NAMMCO, formally established in 1992 by Iceland (which left the IWC in the same year), Norway, Greenland and the Faroe Islands. The other prominent regional organisation was the PCSP (Spanish acronym CPPS)<sup>103</sup> the Permanent Commission for the South Pacific

<sup>99</sup> For a detailed study on the Indian Ocean sanctuary see Sidney J. Holt, "The Indian Ocean Whale Sanctuary", *Ambio*, 12, 6, *The Indian Ocean* (1983), pp. 345–347.

<sup>98</sup> International Fund for Animal Welfare, "IFAW Summary Briefing: Indian Ocean Whale Sanctuary", available at <http://www.ifaw.org/sites/default/files/Indian%20Ocean%20Whale%20Sanctuary.pdf>, accessed on January 10, 2015.

<sup>101</sup> Alexander Gillespie, *Whaling Diplomacy Defining Issues in International Environmental Law*, Cheltenham: Edward Elgar Pub, 2005, p. 293.

<sup>100</sup> Ed Couzens, *Whales and Elephants in International Conservation Law and Politics: A Comparative Study*, 2014, p.160.

<sup>103</sup> The full title is Permanent Commission and Agreements of the Conference on the Use and Conservation of the Marine Resources of the South Pacific. Regional Fishery

– CPPS – the maritime organization that, since 1952, has coordinated regional maritime policies between its member states (Chile, Colombia, Ecuador and Peru) in international negotiations, development of the Law of the Sea, International Environmental Law and other multilateral initiatives. With specific regard to whaling, PCSP was initiated in 1952 to regulate catching of large baleen and sperm whales in the South Pacific. The PCSP is significant because it was the first international agreement to claim jurisdiction over all marine resources, including the sea floor within 200nm (370km) of the coast. This agreement has not been actively pursued since Chile and Peru joined the IWC in 1979 and Colombia and Ecuador stopped whaling; but it is said that this agreement may have potential for dealing with the conservation and management of any cetacean species in PCSP waters.

The area of coverage of the PCSP is the South Pacific: national waters to EEZ limits and high seas.<sup>104</sup> The IWC has dealt with the regional IOs (the PCSP and NAMMCO) by focusing upon individual countries and inviting them to join the IWC. This is the same approach that the IWC has taken the same approach to states which operate outside its mandate. For example, throughout the 1970s, Chile, Peru, Portugal and Spain were all called upon to stick to the ICRW. However, these IOs are not important as they do not include Japanese whaling which is the key point of this thesis. This work revolves around the second whale sanctuary which was adopted in 1994 and covers the waters of the Southern Ocean around Antarctica.<sup>105</sup>

The above events interested social scientists who now began to study how legal-political instruments were used to portray whales as an international policy problem. With this what had been a national or local problem became an international one. As Grieves points out, “Jurisdiction is of course the most basic issue because it is at the heart of delineating “international” from “national” and distinguishing one state’s claims from those of another”, we see in the early 1970s, internationalisation of the whaling problem.<sup>106</sup> Moreover, exceptions that did not make sense from an ecological standpoint were incorporated into the IWC.

Thus, indigenous people such as the Inuit in Canada and the Maka in Washington State were allowed to hunt whales, including species such as the bow head whale which are endangered. Other indigenous people such as the Maori of New Zealand, who have no intention of hunting

Bodies Summary Descriptions, “Permanent Commission for the South Pacific (CPPS) available at <http://www.fao.org/fishery/rfb/cpps/en> accessed on March 3, 2014.

<sup>102</sup> Cetacean Habitat. Treaties, Conventions and Agreements, available online at <http://www.cetaceanhabitat.org/treaties.php>, accessed on March 3, 2014.

<sup>103</sup> International Whaling Commission, “Whale Sanctuaries Establishment of the International Whaling Commission’s Sanctuaries”, available at <https://iwc.int/sanctuaries>, accessed on March 1, 2015.

<sup>106</sup> Grieves, “Leviathan”, p. 711.

whales, have become a member of the World Council of Whalers as a symbolic protest against the western discourse of the IWC. At the same time Japan is prohibited from hunting minke whales though they are not endangered. Thus, deeply contradictory, much of the whaling controversy stems from the translation of Western norms into global governance.

### 2.1 Domestic and International Politics

Another key element in the debate is how the issue is seen in Japan itself. These include how the issue is seen by the powerful Fisheries Agency in Japan, the marginalization of the environmental ministry in this, the almost absence of NGOs in the debate, and powerful cultural aspects that pit Japan against the West.<sup>107</sup> There are several works that look at the question in the context of Japanese domestic politics. Yoichiro and Hirata have looked at how different ways of decision making, showing that grass-roots activity has influence in some issues in Japan, as for example the heavy involvement of NGOs in putting pressure on policy makers in the campaign against landmines. In other instances, there is hardly any grass-roots involvement and decisions are a top down process. Fisheries and whaling are areas in which a central ministry or agency provides a key explanation for decisions taken.<sup>108</sup> In fact, over all, in Japanese environmental policy grass-roots movements play almost no role instead, policy makers dominate.<sup>109</sup>

Fox argues that Japanese environmental policy is subordinate to Japanese business and politics. Thus, even though a unique Japanese ethical code exists, there is a stronger focus on the developmental rather than the environmental components of the concept and the need to be fair to both humans and non-humans. Unless ethical conceptions can be incorporated into the concerns of policy-making they are forgotten. Moreover, Japan, like other Asian countries has put development ahead of concern for the environment.<sup>110</sup> She argues that Japan's global environmental policy (GEP) has developed in a top-down fashion as a response to growing international environmental awareness. Japanese businesses see major economic potential in international environmental policies. Thus, most of Japan's policies on the environment are designed to serve Japanese businesses and policy interests, rather than to fulfil the ethical mandate of the Japanese ethical code. Another key element is the creation of the public discourse around whaling. Looking at newspaper coverage throughout a whaling season (15 December 2007 – 24 March 2008), analysing 48 articles from Australian newspa-

<sup>107</sup> Blok, "Contesting Global Norms", 2008, p. 40.

<sup>108</sup> Yoichiro Sato, and Kato Hirata, *Norms, Interests, and Power in Japanese Foreign Policy*, New York: Palgrave Macmillan, 2008.

<sup>109</sup> Sato and Hirata, *Norms, Interests, and Power in Japanese Foreign Policy*, 2008.

<sup>110</sup> Kagawa-Fox Midori, *Ethics of Japan's global environmental policy: the conflict between principles and practice*, 2014, p. 1.



pers (in English) and 51 articles from Japanese newspapers (in Japanese) and using content analysis to identify the characteristics of the newspaper articles<sup>111</sup>, Kimura argues that Australian media supports the anti-whaling discourse, while Japanese newspapers support the pro-whaling dispute without any consideration of opposing viewpoints.

Another problem is how the issue is approached institutionally in Japan. In the case of whaling, central bureaucratic actors associated with the powerful Fisheries Agency (FA) have combined the mutually exclusive roles of policy initiators and public educators on whaling. FA bureaucrats are the chief actors in government policy-making and thus central to understanding the emergence of pro-whaling counter-mobilization since the early 1970s. They have more power than the Ministry of Foreign Affairs (MOFA)<sup>112</sup> or the environment ministry. They also are disproportionately represented in non-state pro-whaling networks such as semi-governmental pro-whaling research and industry associations, like the Institute of Cetacean Research (ICR), which is responsible for current scientific whaling. Organizations such as the Japan Whaling Association (JWA) and the Japan Small-Type Whaling Association (JSTWA) likewise receive government subsidies and maintain close relations with government officials. In addition, the two largest political parties in Japan, the Liberal Democratic Party (LDP) and the Democratic Party of Japan (DPJ), have both established pro-whaling legislative groups.<sup>113</sup>

Strausz<sup>114</sup> argues that the anti-whaling positions of the United States, which is the de facto position of most of the world, including Australia's, and the Japanese position have a lot more to do with domestic politics than any concern for the welfare of whales. He contends that Japan's scientific whaling regime was formed as a result of a "two-level game" between President Reagan and the Japanese Prime Minister Yasuhiro Nakasone (Prime minister 1982-1987). Though Congress was anti-whaling, he argues, Reagan was not much concerned about the issue. This was similar to the position of Nakasone who was also not particularly concerned about whaling, and who went along with the pro-whaling position of most of Japan's parliament.

Complicating such domestic identity politics is the way in which international negotiating over the environment takes place. Environmental policy-making, rather than being the result of a profound respect for the environment is usually hotly contested. For example, with regard to the

<sup>111</sup> Tets Kimura, "Newspaper Reporting of Whaling in Australia and Japan: A Comparative Content Analysis", *New Voices Volume 6*, 2014, p. 173. See also Kumiko Murata, "Pro-and anti-whaling discourses in British and Japanese newspaper reports in comparison: a cross-cultural perspective", *Discourse & Society*, 18, 6, 2007, pp. 741-764.

<sup>112</sup> Blok, "Contesting Global Norms", 2008, p. 45.

<sup>113</sup> Blok, "Contesting Global Norms", 2008, p. 46.

<sup>114</sup> Michael Strausz, "Executives, legislatures, and whales: the birth of Japan's scientific whaling regime", *International Relations of the Asia-Pacific*, 14, 3, 2014, pp. 455-478.

United States, Susskind<sup>115</sup> looks at the conflicting pressures that work on the making of environmental policy and how these impact the American position at international environmental negotiations. He argues that the difficulty of international environmental negotiations lies in a duality. It is essential to find a way to preserve and protect the biosphere for the planets sake. At the same time, international environmental negotiations recognise the right of every country to protect their nation's interest.<sup>116</sup>

Whaling is a very good example of how such conflicting positions have been mirrored. Prior to the 1980s, when commercial whaling was outlawed, diplomats, scientists, bureaucrats, environmentalists, and sometimes even whalers themselves had attempted to create an international regulatory framework that would allow for a sustainable whaling industry. International negotiations, scientific research and industrial development all came together in these efforts. The rise of technology in the early 20th century led to an attempt to create sustainability in whaling. Dorsey, in a recent book<sup>117</sup> looks at how powerful economic, political, and scientific forces made failure of international whaling regimes nearly inevitable. This conflict is evident in the case of the Japanese whaling dispute at the IWC.

Thus, Japan's whaling policy-making is not motivated by a desire to butcher and sell whale meat, but is instead the result of a complex mix of reasons, including a different discourse over the environment and particularly the protection of whales; Japanese identity politics that sees any threat to ban whaling as an attack on Japanese cultural traditions; pressure from Japanese businesses; an elite-driven policy-making regime in Japan, and finally the contention that anti-whaling measures are aimed at making whale hunting sustainable rather than the protection of whales as a species. Ironically the last point was how the IWC came into being. It seems Japan did not move along with the times. Such battle lines have made IWC meetings fraught with tension.

For example, in 2002, the IWC annual conference broke up and Japan accused the IWC of imposing "Anglo-Saxon" standards that violate their cultural and economic sovereignty.<sup>118</sup> The United States and Japan have often clashed over the issue at the IWC<sup>119</sup>, but the conflict is not only between these two countries.

<sup>115</sup> Lawrence E. Susskind, *Environmental Diplomacy: Negotiating More Effective Global Agreements*, Oxford: Oxford University Press, 2014.

<sup>116</sup> Susskind, *Environmental diplomacy*, 2014, p. 5.

<sup>117</sup> Dorsey Kurkpatrick, 2014, *Whales and Nations: Environmental Diplomacy on the High Seas*, Seattle: University of Washington Press.

<sup>118</sup> James B. McGirk, "Between the Lines: The Whaling Commission Flounders", *Foreign Policy* 132, 2002, pp. 66–67.

<sup>119</sup> "International Whaling Commission Fails to Reach Agreement on Commercial Whaling; United States Sees Commission as Increasingly Ineffective", *The American Journal of International Law*, 104, 3, 2010, pp. 498–500.

## 2.2 The Significant Turn of the IWC

In the beginning, it was conversation, defined as sustainability with regard to whales, rather than saving all whales that was at the heart of the original whaling convention. From the 1940s to the late 1960s, it was this conservation approach that dominated the IWC. There is a key difference between the conservation approach and the environmental approach. The former seeks to preserve whales so that stocks do not run out, the latter preserves whales as they are a protected species.<sup>120</sup> The environmentalist approach to whales that is the hallmark of the IWC today however is of a different nature. It holds that all whales are equally in danger. At the heart of this appeal is the idea, far from scientific evidence, that all species of whale are threatened by whale hunting. This blanket approach has aesthetic and metaphysical implications, and this is why most nations have committed at least verbally to some kind of preservation of whales. Thus, crucially, in contrast to the Japanese discourse, the Western discourse is of an hegemonic nature. What is clear is that the Western discourse is not, as environmentalists and animal welfare activists claim, based on unchallenged facts. Though it is central to the Western discourse the evidence for whales being on the brink of extinction is not clear. To take one example, there are more minke whales now than in the past.<sup>121</sup>

In spite of all this, Australia has been unilateral in its approach to the whaling question. Anton argues that the long-running stalemate under the International Convention for the Regulation of Whaling (ICRW) between the anti-whaling forces and pro-whaling forces is, “probably as good as it gets for the foreseeable future”<sup>122</sup>, since if either side were to achieve the totality of its ambitions in the International Whaling Commission (IWC), he argues the ICRW is likely to end as the accepted global mechanism for international cooperation and coordination on whaling.<sup>123</sup> Indeed, at the 2007 IWC meeting, the Japanese delegation announced that it was considering withdrawal from the treaty and the Commission altogether.<sup>124</sup>

<sup>118</sup> For an exploration of the difference see Robert. C. Paehlke, *Conservation and Environmentalism: An Encyclopedia*, London: Taylor & Francis, 2013.

<sup>121</sup> International Whaling Commission, “Status of Whales”, available online at <https://iwc.int/status>, accessed on January 15, 2015.

<sup>122</sup> Donald K. Anton, “Antarctic whaling: Australia’s Attempt to protect Whales in the Southern Ocean”, *Boston College Environmental Affairs Law Review* 36, 2, 2009, 319.

<sup>123</sup> Anton, “Antarctic whaling”, p. 319.

<sup>124</sup> Sarah Clarke, “Japan threatens to leave International Whaling Commission”, *The World Today*, June 1, 2007, ABC news Australia, available online at <http://www.abc.net.au/worldtoday/content/2007/s1939858.htm>, accessed on February 1, 2015.

### 2.3 Limitations to the International Whaling Commission

However, the IWC faces several problems. At the core is that it is an Intergovernmental organisation and therefore must work within that framework. The IWC does not require unanimous agreement, but it is severely limited in the way it can approach whaling issues. Its enforcement depends on the honesty and integrity of the contracting parties and the whaling companies. At the same time, the attempt to regulate whaling suffers from a classical problem in international law, namely, *res nullius v. res communis*. If whales are *res nullius*, they are the property of no one and are there for the taking. If, on the other hand, whales are *res communis*, they are then the common property of the world community and cannot be exploited without some sort of international mandate.<sup>125</sup> However, the whaling discourse as it is implemented by the IWC is of a hegemonic nature. To understand this it is essential to understand the role of the United States, in imposing its view on the IWC. Scott argues that the United States has consistently tried to impose its hegemony through international organisations. Thus, it has used the IWC to legitimise its policy preferences, disseminating them with efficiency, and promoting stability. She adapts the idea of cognitive structures of co-operation (CSC)<sup>126</sup> to ensure that US policy preferences gain greater legitimacy through being adopted as the policy of an IGO and that international institutions have also served to disguise to some degree US dominance<sup>127</sup> In the late 1970s and early 1980s the IWC underwent a radical shift such that “its *raison d’être* went from being that of maintaining the whaling industry to that of protecting the whales from the industry”.<sup>128</sup> This reflected changes in US domestic policy. Other factors, such as growing wave of environmentalism, increasing acceptance of scientific and other non-state actors in global governance contributed, but in essence, it was an American move. In an early sign of how much the United States would control the discourse regarding whaling; the United States banned the hunting of whales in 1971.<sup>129</sup> The United States took its no-whaling policy to the 1972 United Nations Conference on the Human Environment in Stockholm. US “insistence” led the conference to recommend that the IWC impose a ten-year moratorium on whaling. In 1982, this anti-whaling discourse was institutionalised in the IWC which banned all

<sup>125</sup> Grievés, “Leviathan”, pp. 711–725.

<sup>126</sup> C. M. Glen, “Multilateralism in a Unipolar World: The UN Security Council and Iraq”, 2006, 6, p. 309.

<sup>127</sup> Scott, “Intergovernmental Organizations”, p. 589.

<sup>128</sup> Scott, “Intergovernmental Organizations”, p. 589.

<sup>129</sup> Shirley V. Scott, “Intergovernmental Organizations as Disseminators, Legitimizers, and Disguisers of Hegemonic Policy Preferences: The United States, the International Whaling Commission, and the Introduction of a Moratorium on Commercial Whaling”, *Leiden Journal of International Law* 21, 3, 2008, pp. 581–600.

commercial whaling in 1982. This dramatic shift underscored the changing of attitudes to the exploitation of whaling resources, and the growing power of NGOs and other non-state actors on US domestic politics, especially that of the environmental movement and lobby groups. Environmentalism had become a powerful political idea and movement in the United States. This meant that no longer was it possible to merely conserve the whale, but it had been saved.

The difficulties with regard to this position are evident in how other organisations, most predominately the North Atlantic Marine Mammal Commission which was formally established in 1992 by Iceland (which left the IWC in the same year), Norway, Greenland and the Faroe Islands. Kate Sanderson, the former secretary to NAMMCO suggested: “One of the prime motivating factors behind the creation of NAMMCO was the dissatisfaction in the North Atlantic with the inability of the IWC to agree on a basis for conservation and management of large whales according to these principles and its own convention.”<sup>130</sup> Gillespie admirably summarises the ambiguity and difficulties inherent in this position: “Here is my thesis in a nutshell: if you want to protect whales, be aware that the debate is about ethics, politics and law. Only when all three of these over-lapping considerations are fully factored into the equation, will there be a meaningful understanding of this debate.”<sup>131</sup> The IWC also does not take into account the changing nature of threats, such as climate change and multiple sources of pollution. Its intergovernmental approach also makes it difficult to approach international issues while trying to impose a dominant discourse. Other problems include difficulties within the IWC, with regard to the definition of indigenous people, confusion over exactly what non-commercial hunts means has arisen as biological and cultural considerations have become muddled up. This is especially so with the consideration of “culture” where the IWC about what constitutes culture.<sup>132</sup> The best case study of such opposing viewpoints thus becomes the case between Australia and Japan at the International Court of Justice, at The Hague. This will be looked at in detail in a later part of this work.

<sup>130</sup> Gillespie, *Whaling Diplomacy*, p. 324.

<sup>131</sup> Gillespie, *Whaling Diplomacy*, p. 484.

<sup>132</sup> Gillespie, *Whaling Diplomacy*, p. 481.

### 3 Backdrops to the ICJ Case: Antarctica Region and Significance for Australia

Australia has not expanded research stations to the Eastern Sector that was remote in 1961. Most of the Australian Antarctic Territory is still remote and too far away from Australia's reach.<sup>133</sup> In contrast, when it comes to issue of whaling Australian courts have enforced Australian territorial claims though it has never deployed the navy against Japanese whaling ships. Japan does not recognize this. JARPA II activities alternated between waters offshore those parts of Antarctica claimed by Australia (2007/8) and New Zealand (2006/7), and in the 2008/9 JARPA II was conducted within the Ross Sea offshore the Ross Dependency. The Yushin Maru II case is significant as it illustrates the complex connection between direct environmental protest and territorial claims. The JARPA II fleet was confronted by non-governmental protest vessels including the M/V Farley Mowatt and M/V Steve Irwin operated by the Sea Shepherd Conservation Society. On 15 January 2008 two crew members of the M/V Steve Irwin boarded the Yushin Maru II where they were detained until 17 January 2008 and then transferred to the Oceanic Viking.<sup>134</sup> This was the basis of the suit that Japan filed in the US court. The US based non-profit pro whale organization, Sea Shepherd, which had tried to block Japanese whaling ships, was charged with piracy. The Japanese claim that they were victims of piracy have been maintained by US courts. The directing Judge Alex Kozinski of the ninth US circuit court of requests wrote "You needn't bother with a peg leg or an eye patch. When you slam boats; fling holders of corrosive; drag metal-fortified ropes in the water to harm propellers and rudders; launch smoke shells and flares with snares; and point high-fuelled lasers at different boats, you are, no ifs ands or buts, a privateer, regardless of how decent you accept your motivation to be."<sup>135</sup>

<sup>133</sup> Andrew Jackson, "Antarctic Sovereignty: Are We Serious?", April 13, 2014.

<sup>134</sup> Report of the Canberra Panel. Japan's "Scientific" Whaling Program and the Antarctic Treaty System Independent Panel of Legal and Policy Experts, January 2009, available at <http://cbialdia.mardecetaceos.net/archivos/download/ReporteCanberrazc1527.pdf>, pp. 3 to 5.

<sup>135</sup> Alan Yuhas, "Sea Shepherd Conservation Group Declared 'Pirates' in US Court Ruling", *The Guardian* 27 Feb. 2013,

Be that as it may, the decision has been reprimanded on the ground that the controversy that Sea Shepherd submitted a demonstration of piracy on the High Seas is defective on a fundamental premise. A key component of piracy as stated by article 101, of the United Nations Convention on the Law of the Sea (UNCLOS) is that piracy is “any unlawful demonstrations of viciousness or detainment, or any demonstration of ravaging as stated is piracy is submitted for private motives by the group or the travellers of a private boat or a private flying machine, and steered ... on the high oceans, against an alternate boat.” The high oceans, thus, are by article 86 as “all parts of the ocean that are not included in the select monetary zone, in the regional ocean or in the inward waters of a State, or in the archipelago waters of an archipelago State.”<sup>136</sup>

Since the Sea Shepherd is a non-benefit association commentators held that the judgment is defective. Notwithstanding, past this is the substantially more critical issue of the degree to which Australia’s ocean outskirt grows. Australia’s whale asylum is a debated territory that, under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) all cetaceans (whales, dolphins and porpoises) are ensured in Australian waters: the Australian Whale Sanctuary incorporates all Commonwealth waters from the three nautical mile state waters confine out to the limit of the Exclusive Economic Zone (i.e. out to 200 nautical miles and further in a few spots). Within the Sanctuary it is an offence to murder, harm or meddle with a cetacean. Serious punishments apply to anybody indicted such offenses all states and regions likewise secure whales and dolphins inside their waters. It incorporates the sum of Australia’s Exclusive Economic Zone (EEZ), for the most part it reaches out to 200 nautical miles (roughly 370 kilometres) from the coast, yet stretches out further in a few regions to blanket seaward regional waters and islands. The Australian EEZ incorporates the waters around Australia’s outer regions, for example, Christmas, Cocos (Keeling), Norfolk, Heard and Macdonald islands.

In the Humane Society International Case JARPA and JARPA II was the subject of legal proceedings in the Federal Court of Australia brought by Humane Society International (HSI) against Kyodo. HSI posed that Kyodo had committed offences under sections 229-230 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) by killing and injuring whales inside the Australian Whale Sanctuary that was connected to the AAT. Australia’s courts have enforced the claim; most notably against the plaintiffs in the Sea

<http://www.theguardian.com/environment/2013/feb/27/sea-shepherd-pirates-us-court>, consulted on April 28, 2014.

<sup>136</sup> Kevin John Heller, “Opinio Juris” Blog Archive Sea Shepherd, Piracy, and the ‘High Seas’, *Opinio Juris*, <http://opiniojuris.org/2013/03/01/sea-shepherd-piracy-and-the-high-seas>, consulted April 22, 2014.

Shepherd-case themselves, the Institute for Cetacean Research (ICR), ruling that Japan's actions were illegal. In 2008, the Full Court of the Federal Court of Australia enjoined ICR from continuing to whale in the AWS, by a ruling. The Court declared that the respondent has "killed, injured, taken and interfered with Antarctic minke whales (*Balaenoptera bonaerensis*) and fin whales (*Balaenoptera physalus*) and injured, taken and interfered with humpback whales (*Megaptera novaeangliae*) in the Australian Whale Sanctuary in contravention of sections 229, 229A, 229B and 229C of the Environment Protection and Biodiversity Conservation Act 1999 (Cth)"<sup>137</sup>, (the "Act"), and has treated and possessed such whales killed or taken in the Australian Whale Sanctuary in contravention of sections 229 D and 230 of the Act, without permission or authorisation under sections 231, 232 or 238 of the Act.<sup>138</sup> The Court orders that the respondent be restrained from killing, injuring, taking or interfering with any Antarctic minke whale (*Balaenoptera bonaerensis*), fin whale (*Balaenoptera physalus*) or humpback whale (*Megaptera novaeangliae*) in the Australian Whale Sanctuary, or treating or possessing any such whale killed or taken in the Australian Whale Sanctuary, unless permitted or authorised under sections 231, 232 or 238 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth).<sup>139</sup>

The institutionalisation of the anti-whaling discourse in the IWC is a very good example of how global norms and environmental values, alongside a sleuth of non-state actors like international NGOs transform discourses. Thus, to illustrate this, I shall closely examine Australia's case against Japan at the ICJ. While Norway and Iceland are also whaling nations, the conflict between them and anti-whalers does not have the cultural overtones that the conflict between Australia and Japan have. This is exactly why it is essential to my thesis to highlight the disagreement between Australia and Japan.

<sup>137</sup> See Before ist News from January 9, 2014, <http://beforeitsnews.com/environment/2014/01/japan-harpoon-ship-closes-in-on-southern-ocean-whale-sanctuary-australia-government-remains-silent-after-pleas-to-intervene-2489780.html>, accessed January 14, 2014.

<sup>138</sup> Takver-Sydney, Indymedia, "Japanese Whaling Found to Be Illegal under Australian Law : Indybay", April 29, 2014, available at <http://www.indybay.org/newsitems/2008/01/15/18472805.php>, accessed April 29, 2014.

<sup>139</sup> For a detailed explanation see David Leary, "The Standing of Civil Society to Enforce Commonwealth Environmental Law under Section 475 of The Environment Protection and Biodiversity Conservation Act and its International Implications: The Japanese Whaling Case and the Law of Unintended Consequences", *Macquarie Law Journal*, 8, 2008.



#### 4 ICJ Case: Australia versus Japan with New Zealand Intervening

On 31 May 2010, Australia instituted proceedings against Japan, alleging that “Japan’s continued pursuit of a large-scale program of whaling under the Second Phase of its Japanese Whale Research Program under Special Permit in the Antarctic (JARPA II) is in breach of obligations assumed by Japan under the International Convention for the Regulation of Whaling (ICRW), as well as its other international obligations for the preservation of marine mammals and the marine environment.”<sup>140</sup> At the end of its application, Australia made a request to the ICJ to order that Japan: “(a) cease implementation of JARPA II; (b) revoke any authorisations, permits or licences allowing the activities which are the subject of this application to be undertaken; and (c) provide assurances and guarantees that it will not take any further action under the JARPA II or any similar program until such program has been brought into conformity with its obligations under international law.”<sup>141</sup> As the basis for the jurisdiction of the ICJ, Australia invokes Article 36(2), of the ICJ Statute, referring to the declarations recognizing the ICJ’s jurisdiction as compulsory. This was accepted by Australia in 2002 and by Japan in 2007. By an Order of 2010, the Court fixed 9 May 2011 as the deadline for Australia to file a memorial, and 9 March 2012 as the last day on which Japan could file a counter memorial. These deadlines were honoured. In November 2012, New Zealand filed a Declaration of Intervention in the case.<sup>142</sup> By an Order of 6 February 2013, the ICJ authorized New Zealand to intervene and fixed 4 April

<sup>140</sup> International Court of Justice “Australia Institutes Proceedings against Japan for Alleged Breach of International Obligations concerning Whaling”, ICJ press release no. 2010/16, 1 June 2010, available online at <http://www.icj-cij.org/docket/files/148/15953.pdf>, accessed February 1, 2015.

<sup>141</sup> *Ibid.*, p. 2.

<sup>139</sup> International Court of Justice, Declaration Of Intervention (Article 63 of the Statute) of The Government Of New Zealand filed in the Registry of the Court on 20 November 2012 Whaling in the Antarctic (Australia v. Japan) available online at <http://www.icj-cij.org/docket/files/148/17256.pdf>.

2013<sup>143</sup> as the deadline for the filing of written observations by New Zealand. The ICJ also authorized the filing of written observation by Australia and Japan in response to the written observations of New Zealand and 31 May 2013 as the deadline for this. On Monday 31 March 2014, the International Court of Justice (ICJ), the principal judicial organ of the United Nations, will deliver its Judgment in the case concerning Whaling in the Antarctic (Australia v. Japan: New Zealand intervening). On March 31, 2014, a ruling by the International Court of Justice in The Hague dispute between Australia and Japan over whaling ended with the court ruling in favour of Australia. The key points of the judgement, that was final, and without possibility of appeal, can be summarised as below.<sup>144</sup> The court jurisdiction to entertain the application filed by Australia on 31 May 2010; found, by twelve votes to four, that the special permits granted by Japan in connection with JARPA II do not fall within the provisions of Article VIII, paragraph 1, of the International Convention for the Regulation of Whaling; found by twelve votes to four, that Japan, by granting special permits to kill, take and treat fin, humpback and Antarctic minke whales in pursuance of JARPA II, has not acted in conformity with its obligations under paragraph 10 (e) of the Schedule to the International Convention for the Regulation of Whaling; also, that Japan has not acted in conformity with its obligations under paragraph 7 (b) of the Schedule to the International Convention for the Regulation of Whaling in relation to the killing, taking and treating of fin whales in the “Southern Ocean Sanctuary” in pursuance of JARPA II; found, by thirteen votes to three, that Japan has complied with its obligations under paragraph 30 of the Schedule to the International Convention for the Regulation of Whaling with regard to JARPA II. In other words, the judgement held that the Japanese, under the guise of scientific whaling had captured and killed more than 10,000 minke and other whales in the Southern Ocean since 1988.<sup>145</sup> The primary point of Australia, a former whaling country,

<sup>143</sup> International Court of Justice “Whaling in the Antarctic (Australia v. Japan) The Court authorizes New Zealand to intervene in the proceedings“, ICJ press release No. 2013/2, 13 February 2013, available online at <http://www.icj-cij.org/docket/files/148/17266.pdf>, accessed on February 1, 2015.

<sup>144</sup> International Court of Justice “Whaling in the Antarctic (Australia v. Japan: New Zealand intervening) The Court finds that Japan’s whaling programme in the Antarctic (JARPA II) is not in accordance with three provisions of the Schedule to the International Convention for the Regulation of Whaling“, ICJ press release No. 2014/14 31 March 2014, available online at <http://www.icj-cij.org/docket/files/148/18162.pdf>, accessed on February 1, 2015.

<sup>142</sup> Hiroko Tabuchi, and Marlise Simons, “U.N. Court Orders Japan to Halt Whaling Off Antarctica“, *The New York Times*, (henceforth NYT) 31 March 2014, available at [http://www.nytimes.com/2014/04/01/world/europe/united-nations-court-rules-against-japan-in-whaling-dispute.html?\\_r=0](http://www.nytimes.com/2014/04/01/world/europe/united-nations-court-rules-against-japan-in-whaling-dispute.html?_r=0), accessed April 1, 2014.

insisted that Japan had used a legal escape clause to circumvent the 1986 worldwide ban on commercial whaling.

The basic contention of the government of Australia was that the research was a cover for continued commercial whaling. This was upheld by a 12 to 4 vote. The judgement held that Japan had used flawed and non-scientific methods to justify the cull, and had produced little scientific knowledge.

“It isn’t clear, however, whether the ruling will deter Japan from whaling; it applies only to the Antarctic hunt, and not to future hunts or to a similar Japanese program in the North Pacific.”<sup>146</sup>

Thus, Australia’s case at the IWC has almost universally been seen as one based on an unselfish wish to save whales in southern ocean. However, as this chapter shows, reality is more complex. Not all whales are in danger of extinction, Australia’s contention that 19th century whaling almost eliminated whales as a species is not backed up by scientific evidence, and Australia’s challenge to Japan on whaling in the Antarctic region has equal, if not more, to do with territorial legitimacy and its recognition claims as it have to do with concern for the welfare of whales.

#### 4.1 Territorial Aspects of the Dispute

Importantly, unlike other sea border disputes the dispute over the Antarctic Ocean territory between Japan and Australia does not have any roots in a territorial dispute. Instead, the conflict is based on identity and varying perceptions of how whales must be protected. Further, crucial to the dispute is that Japan does not recognize the maritime borders of the Australian Antarctic Territory (AAT). This territory, claimed by the United Kingdom, and given to Australia in 1933, and at 42 percent of Antarctica, is the largest chunk of the continent claimed by any single nation. AAT comprises the islands and region south of 60°S and between 45°E and 160°E, with the exception of Adélie Land (136°E to 142°E), which isolates the domain into Western AAT (the bigger bit) and Eastern AAT. It is limited by Queen Maud Land in the West and by Ross Dependency in the East. The zone has an area of 5,896,500 km<sup>2</sup>. The domain is occupied by the staff of exploration stations.

The Australian Antarctic Division regulates the zone principally by keeping up three year-round stations (Mawson, Davis and Casey), which help different exploration ventures.<sup>147</sup> “Australia is among seven

<sup>146</sup> Virginia Morell, “Court Slams Japan’s Scientific Whaling”, *Science*, 344, 6179, 2014, p. 22, <http://news.sciencemag.org/node/112117>, accessed April 24, 2014.

<sup>147</sup> Government of Australia, Department of the Environment, Australian Antarctic Division, “Areas, Lengths, Heights and Distances — Australian Antarctic Division”, *Australian Antarctic Division, Leading Australia’s Antarctic Program*,

nations that have claimed territory in Antarctica. These claims are based on discovery and effective occupation of the claimed area, and are legal according to each nation's laws. Three countries – the United Kingdom, Chile and Argentina – have overlapping claims in the Antarctic. Some countries explicitly recognise these claims; some have a policy of not recognising any claims in Antarctica, and others reserve the right to make a claim of their own.<sup>148</sup> Australia has based its claim on the explorations of people such as Douglas Mawson, John King Davis, Hubert Wilkins, John Rymill and Phillip Garth Law who, the government claims, “saw the potential for Antarctica’s scientific wealth and showed conviction in pursuing it”.<sup>149</sup> Australia has also claimed that the AAT is of immense value to Australia, with its superlative environment, its valuable resource including fishing and tourism; its unexploited mineral wealth and other resources. It has also claimed that its diplomatic values allow Australia to have a say in Antarctic governance. It has even claimed that its cultural values inspire Australians in the arts and that its proximity is a key to Australia’s way of life.<sup>150</sup> According to Australia the work of Mawson expeditions makes Australia’s territorial claim over the areas of Antarctica legitimate. On 7 February 1933, the British Government issued an Order-in-Council placing the Territory under the authority of the Commonwealth of Australia. It said, “... the Territory in the Antarctic seas which comprises all the islands and territories, other than Adelie Land, situated south of the 60th degree south latitude and lying between the 160th degree east longitude and the 45th degree east longitude, is hereby declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth, by the name of the Australian Antarctic Territory.” *If Australia’s claims are accepted, 42 per cent of Antarctica is Australian.* The 1961 Antarctic treaty froze territo-

<http://www.antarctica.gov.au/about-antarctica/history/exploration-and-expeditions/the-australian-antarctic-territory>, consulted on April 24, 2014.

<sup>148</sup> Government of Australia, Department of the Environment, Australian Antarctic Division. “Who Owns Antarctica? — Australian Antarctic Division”, *Australian Antarctic Division, Leading Australia’s Antarctic Program*, available at <http://www.antarctica.gov.au/about-antarctica/people-in-antarctica/who-owns-antarctica> accessed April 24, 2014.

<sup>146</sup> Government of Australia, Department of the Environment, Australian Antarctic Division. “Australian Antarctic History”, *Australian Antarctic Division, Leading Australia’s Antarctic Program*, available at <http://www.antarctica.gov.au/about-antarctica/history/exploration-and-expeditions/the-australian-antarctic-territory>, accessed April 24, 2014.

<sup>150</sup> Government of Australia, Department of the Environment, Australian Antarctic Division. “Who Owns Antarctica? — Australian Antarctic Division.” *Australian Antarctic Division, Leading Australia’s Antarctic Program*, available at <http://www.antarctica.gov.au/about-antarctica/history/exploration-and-expeditions/the-australian-antarctic-territory> accessed April 24, 2014. N. p., n.d., accessed April 29, 2014.

rial claims, but Australia's claims in Antarctica are recognised by only four other countries, France, New Zealand, Norway and the United Kingdom - four states that have their own territorial claims in Antarctica. Other treaties followed and at present the ATS comprises several key treaties and other instruments regulating the Antarctic region, including the 1959 Antarctic Treaty, the 1972 Convention for the Conservation of Antarctic Seals, the 1980 Convention on the Conservation of Antarctic Marine Living Resources and the 1991 Environmental Protocol on Environmental Protection to the Antarctic Treaty.

At present, the territorial issue is ambivalent. However the AAT has no competing claims on it, while three of the other claims overlap and are directly disputed. The AAT's three neighbours recognize Australia's sovereignty. The 1961 Antarctic Treaty<sup>151</sup> was not a peace treaty; it was one that tried to prevent conflict. Article IV<sup>152</sup> is at the heart of the Treaty and deals with sovereignty. The Treaty recognises that the claims exist and doesn't diminish them: No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim or enlargement of an existing claim to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.<sup>153</sup>

The remoteness and the harshness of the area has, until now, prevented any conflict over it, but, ominously, both Russia and the United States have reserved the rights to make their own claims and have consistently refused to make clear whether such claims will include parts of the AAT. Since 1961, the signatories to the Treaty have grown from 12 to 50 nations. There are several aspects that could develop into future conflict. East Antarctica has been explored, Russia has been increasingly assertive, and China has been eyeing the territory setting up research stations.<sup>154</sup>

Such an examination is important because of the apparently intractable divide on the issue in the International Whaling Commission. Current Australian whaling law has established the Australian Whale Sanctuary in the Exclusive Economic Zone of the Australian mainland and external territories (including the purported Australian Antarctic

<sup>151</sup> Conference on Antarctica, The Antarctic Treaty, 1961, [http://www.ats.aq/documents/ats/treaty\\_original.pdf](http://www.ats.aq/documents/ats/treaty_original.pdf), consulted on April 24, 2014.

<sup>152</sup> Conference on Antarctica, The Antarctic Treaty, 1961, [http://www.ats.aq/documents/ats/treaty\\_original.pdf](http://www.ats.aq/documents/ats/treaty_original.pdf), consulted on April 24, 2014.

<sup>153</sup> Secretariat the Antarctic Treaty, "The Antarctic Treaty", available at <http://www.ats.aq/e/ats.htm>, accessed on January 31, 2015.

<sup>154</sup> Andrew Jackson, "Antarctic Sovereignty: Are We Serious?", The Strategist. The Australian Strategic Policy Institute Blog, available at <http://www.aspirategist.org.au/antarctic-sovereignty-are-we-serious/>, accessed March 24, 2015.

Territory in the Southern Ocean). While Australia's claims are rather weak in international law, it has even used municipal litigation as a protection strategy in Australian courts by NGOs in an attempt to protect whales in the Antarctic Southern Ocean. As Anton points out, the conflict with Japan over whaling in the Southern Ocean has become an annual "political ritual" that captures the Australian public imagination. Thus Australia has become the self-appointed guardian of Antarctic whales whilst Japan remains resolutely pro-whaling.<sup>155</sup>

#### 4.2 The Japanese Whaling Program

It is incumbent now to revisit the Japanese whaling program. Japan, a signatory to five international conventions namely, United Nations Convention on the Laws of the Sea III (UNCLOS III), the International Convention for the Regulation of Whaling (ICRW); the Convention on International Trade in Endangered Species (CITES); the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) and the Convention on Biodiversity (CBD). Still, even after IWC became an anti-whaling organization, Japanese whaling has continued for "research".<sup>156</sup> This has been done through a legal loophole in the IWC. Thus, Article VIII of the Convention permits State parties to issue special permits authorizing the taking and killing of whales for scientific purposes provided that state parties issuing permits under Article VIII report to the IWC. Japan first introduced its Whale Research Program under Special Permit in the Antarctic (JARPA) in the austral summer seasons from 1987/88 to 2004/05. The JARPA had four main objectives: a) estimation of biological parameters to improve the stock management of the Southern Hemisphere minke whale; b) to elucidate the role of whales in the Antarctic marine ecosystem; c) elucidation of the effect of environmental change on cetaceans; and d) elucidation of the stock structure of Southern Hemisphere minke whales to improve management.<sup>157</sup>

Based on the results of JARPA, in 2005 Japan began a new and expanded program called JARPA II which had four stated program objectives: "(1) monitoring of the Antarctic ecosystem; (2) modelling competition among whale species and developing future management objectives; (3) elucidation of temporal and spatial changes in stock structure; and (4) improving the management procedure for Antarctic minke

<sup>155</sup> See Donald K. Anton. "Antarctic Whaling: Australia's Attempt to Protect Whales in the Southern Ocean" *Boston College Environmental Affairs Law Review* 36.2 (2009): 319., <http://works.bepress.com/donanton/2/>, accessed 14 April, 2014.

<sup>156</sup> Roger Farrell, *Internationalisation of Japanese Business*, Cheltenham: Edward Elgar, 2007, p. 134.

<sup>157</sup> Anton, "Antarctic whaling", 2009, p. 320. See also <http://www.icrwhale.org/JARPAResults.html>, accessed 14 April, 2014.

whale stocks.”<sup>158</sup> Environmentalists were particularly worried about the addition of fin and humpback whales. Humpback whales are listed as Annex I species (most threatened) under the Convention on International Trade in Endangered Species. Fin whales are listed as endangered on the World Conservation Union (IUCN) Red List. Another concern lies in the fact that species of these whales that are sampled might include whales that live in depleted breeding populations. JARPA II inspired vigorous opposition from the west. By Resolution 2005-1 (passed by a majority of thirty votes to twenty-seven votes with one abstention), the IWC “strongly urge[d] the Government of Japan to withdraw its JARPA II proposal”.<sup>159</sup> Japan reacted by continuing to issue special permits under JARPA II. In 2007, New Zealand proposed Resolution 2007-1<sup>160</sup>, with the support of several other countries including Australia, Great Britain, and the United States.

The resolution received forty votes in favour, two against, with one abstaining. Japan and twenty-six other states did not participate arguing that the resolution was counter-productive to its efforts to “normalize” whaling within the IWC. At the 2008 IWC annual meeting there was formal agreement on a method for reviewing permit applications—including JARPA II.<sup>161</sup> A small, independent expert workshop was held in September 2008 to review new proposals, and to review the results of existing proposals—including the JARPA II program. However, the IWC is still far from any binding agreement on the issue. At the core of the dispute between the whaling nations of Norway, Iceland and Japan and the rest of the world are differing ideas on how these international whaling conventions are to be honoured. The whaling nations hold that if the overall levels of whales are not affected then whaling should be allowed. Nations that oppose this, such as Australia, contend that whales should not be hunted no matter what. This is the essence of the dispute.<sup>162</sup>

Norway and Iceland have commercial whaling programs despite the whaling ban of 1986, but Japan has argued that its whaling is scientific. “Japan, which signed a 1982 ban on commercial whaling, said it had a right to conduct the kills under the research provisions of a 1946 whaling agreement, and argued the lethal studies were needed to understand

<sup>155</sup> Government of Japan, *Plan for the Second Phase of the Japanese Whale Research Program under Special Permit in the Antarctic (JARPA II) – Monitoring of the Antarctic Ecosystem and Development of New Management Objectives for Whale Resources*, 2005, available online at <http://www.icrwhale.org/pdf/SC57O1.pdf>, accessed April 15, 2014.

<sup>156</sup> Website [www.iwcoffice.org](http://www.iwcoffice.org), Resolution 2005, accessed April 23, 2014.

<sup>157</sup> Resolution on JARPA, IWC Res. 2007-1, <http://www.iwcoffice.org/meetings/resolutions/Resolution2007-1.pdf> [hereinafter Resolution on JARPA].

<sup>161</sup> Anton, “Antarctic Whaling”, 36.2, 2009, p. 324.

<sup>162</sup> Alexander Gillespie, *Whaling Diplomacy Defining Issues in International Environmental Law*, Cheltenham: Edward Elgar Pub, 2005, pp. 182–83.

whale populations and marine ecosystems.”<sup>163</sup> Critics argue that this is merely an excuse for commercial whaling, and that the Japanese program has not produced any real scientific results.

This is all the more important since whaling is not profitable for the Japanese. The Japanese whale hunt is subsidized by tax payer money and much of the whale meat that is harvested is wasted. In fact, rather than make a profit, Japan has spent \$164 million supporting its whaling industry since 1988.<sup>164</sup> In spite of the fact that whaling is useless from an economic viewpoint, the Japanese government permits whale meat from “research” campaigns to be sold economically, and has even utilized open stores to help the system. Counter-activation in Japan has been depicted as a battle for Japanese culture. The ICJ judgement of March 2014 essentially agreed with the Western contention that “research” was just a cover for commercial whaling. It is significant that Japan has not defended its program on scientific grounds; instead it has insisted that Japanese whaling has deep roots in Japanese culture. At the end of the day, the trouble of building an ethical case for whaling has fallen squarely on Japanese actors.<sup>165</sup> The Canberra Panel<sup>166</sup>, was an independent panel of a group of Antarctic law and policy experts convened by the International Fund for Animal Welfare (IFAW) to provide an independent strategic assessment of the options available to Australia, New Zealand and other likeminded states to effect scrutiny of Japan’s Antarctic whaling operations through the Antarctic Treaty System (ATS). It was asked to evaluate JARPA and JARPA II.<sup>167</sup>

The task of the panel was to ascertain how the environmental risks of Japan’s Antarctic whaling program could be placed on the agenda of future Antarctic Treaty Consultative Meetings (ATCM) and other ATS forums. The work of the Canberra Panel build on previous work commissioned by IFAW, including the reports of the Paris, Sydney and London Panels, with the eventual aim of challenging the legality of Japan’s Antarctic whaling program. The report of the Canberra Panel played a big role in the decision of the Australian government to take Japan to the International Court of Justice or the International Tribunal

<sup>163</sup> Virginia Morell, Court Slams Japan’s Scientific Whaling, *Science AAAS*, April 3, 2014, <http://news.sciencemag.org/node/112117>, accessed April 14, 2014.

<sup>164</sup> <http://www.ifaw.org/sites/default/files/economics-of-japanese-whaling-japan-ifaw.pdf>, also Shrikesh Laxmidas, “Japan, Norway subsidizing unprofitable whaling”, June 18, 2009, available at <http://www.reuters.com/article/2009/06/19/us-whaling-wwf-idUSTRE55100M20090619>, consulted on September 2, 2014.

<sup>165</sup> Blok, “Contesting Global Norms”, 8, 2, 2008, p. 42.

<sup>166</sup> Report of the Canberra Panel, 2009.

<sup>167</sup> Tim Stephens, “The Journey to The Peace Palace: Building the Whales Case”, Sydney Center for International Law, April 15, 2014, report available at [http://sydney.edu.au/law/events/2014/Apr/Rapid\\_Response\\_Whales\\_03042014.pdf](http://sydney.edu.au/law/events/2014/Apr/Rapid_Response_Whales_03042014.pdf).



for the Law of the Sea to challenge the legitimacy of Japan's "scientific" whaling program.

JARPA II activities alternated between waters offshore to those parts of Antarctica claimed by Australia (2007/8) and New Zealand (2006/7), and the 2008/9 JARPA II was predominantly conducted within the Ross Sea offshore the Ross Dependency. The Japanese took up to 935 minke whales and 50 fin whales in the 2008/9 season.<sup>168</sup> JARPA II<sup>169</sup> is conducted by a public company, Kyodo Senpaku Kaisha Ltd (Kyodo), under permits granted by the Japanese government. In recent seasons JARPA II has been carried out by a fleet of five Japanese-flagged vessels, comprising one sighting and survey vessel, three catcher vessels and a factory ship. A sixth vessel, the Panamanian-flagged *Oriental Bluebird*, has been used for resupply, refuelling and transshipment of whale meat. In October 2008 the *Oriental Bluebird* was deregistered following a ruling in a Panamanian court that the owners, Hiyo Shipping Co Ltd, had violated domestic and international shipping regulations relating to permissible use, maritime safety, and marine environmental protection. Specifically it was found that by being used for the trans-shipment and transport of whale meat the owners had failed to comply with Panamanian law that requires all vessels flying its flag to comply with Panama's whale protection policies.<sup>170</sup>

Around 6,800 minke whales were taken during the 18 year period in which JARPA was conducted. For much of that period JARPA was carried out in the Southern Ocean Sanctuary that was declared by the IWC in 1994. Japan was the only member of the IWC to vote against the Southern Ocean Sanctuary, and has lodged an objection to the Sanctuary with respect to minke whales. In 2005 Japan announced the "Second Phase of the Japanese Whale Research Program under Special Permit in the Antarctic" (JARPA II). The 2005/6 and 2006/7 seasons were devoted to a feasibility study, with the full-scale program to commence from the 2007/08 season, and continue for a further three seasons. In JARPA II, perhaps in response to the environmental pressure, the "monitoring of the Antarctic ecosystem" was elevated to be the first of the program's four stated objectives. Emphasising the broad purpose of the program in examining the Antarctic ecosystem, the

<sup>168</sup> Report of the Canberra Panel. Japan's "Scientific" Whaling Program and the Antarctic Treaty System Independent Panel of Legal and Policy Experts, January 2009, available at

<http://cbialdia.mardecetaceos.net/archivos/download/ReporteCanberrazc1527.pdf>.

<sup>169</sup> For technical details on the JARPA program this part of the section relies on the Canberra report.

<sup>170</sup> Mark Willacy, "Greenpeace says Japanese whaling ship de-registered", Australian Broadcasting Corporation, Radio Australia, available on <http://www.radioaustralia.net.au/international/2009-01-23/greenpeace-says-japanese-whaling-ship-deregistered/135322>, accessed on December 29, 2014.

overview of JARPA II presented by Japan to the IWC Scientific Committee at the 57th Annual Meeting of the IWC in 2005 noted that JARPA II was “expected to be a long-term research program focussed on Antarctic minke, humpback and fin whales, crab eater seals, and possibly other species in the Antarctic ecosystem that are major predators of Antarctic krill.”<sup>171</sup>

The Sea Shepherd incident shows how an external event such as whaling can affect perceptions of maritime borders. Implicitly Judge Kozinski’s decision to consider the actions of the Sea Shepherd to be piracy also reflects the position of the United States on the sea border dispute. The United States refuses to recognize Australia’s claim to the waters that include the AWS, possibly because it wants to reserve the right to make its own claims in Antarctica in future. Judge Kozinski made this clear. An Australian court has entered default judgement against Cetacean, purporting to enjoin it from whaling in Antarctic coastal waters over which Australia claims sovereignty. The district court’s deference to Australia’s judgement in that case was an abuse of discretion. To begin, the district court misunderstood the Australian judgement, which addressed the legality of Cetacean’s activities, not Sea Shepherd’s. Whatever the status of Cetacean’s whaling under Australian law, it gives Sea Shepherd no license to engage in piracy. It is for Australia, not Sea Shepherd, to police Australia’s court orders. Additionally, comity applies only if the foreign court has competent jurisdiction. But the United States doesn’t recognize Australia’s claims of sovereignty over Antarctic waters. By according comity to Australia’s judgement, we would implicitly recognize Australia’s jurisdiction, in contravention of the stated position of our government. The conduct of foreign affairs is within the exclusive province of the Executive, and we must defer to its views.<sup>172</sup> Once again, the domestic discourse does not match up with the willingness of the Australian government to apply the law. Australia, despite all its claims, has not sent Australian naval ships to enforce the zone. This is despite having done so with illegal fishing in Australia’s waters. In this reading, Sea Shepherd’s actions were piracy since private parties cannot enforce national law. With regard to the whaling issue, different perceptions of the environment also play a role.

<sup>171</sup> Government of Japan, Plan for the Second Phase of the Japanese Whale Research Program under Special Permit in the Antarctic (JARPA II) *Monitoring of the Antarctic Ecosystem and Development of New Management Objectives for Whale Resources* available online at <http://www.icrwhale.org/eng/SC57O1.pdf>, p. 5.

<sup>172</sup> United States Court of Appeals for the 9<sup>th</sup> Circuit, Institute of Cetacean Research, Kyodo Senpaku Kaisha, Ltd., a Japanese Corporation, Tomoyuki Ogawa and Toshiyuki Miura, versus Sea Shepherd Conservation Society, An Oregon Non-profit Corporation; Paul Watson, Seattle: United States District Court For The Western District Of Washington. Web. Available online at <http://www.winston.com/images/content/1/2/127.pdf>, accessed on January 31, 2015.

Under the ATS, the Antarctic and Southern Ocean are seen as exceptionally sensitive areas which are subject to stringent environmental impact assessments before they are permitted to proceed. Activities include the construction of new scientific bases, tourism, and scientific research. At the core was the idea of Antarctica as a pristine area that was environmentally fragile. The panel stressed that Japanese ships were subs-standard and carried out extremely dangerous operations such as refuelling at sea. Australia argues that the environmental risks associated with Antarctic whaling were clearly highlighted in 2007 by the explosion and subsequent fire on board the whale factory vessel, the *Nisshin Maru*, in an ice-exposed area of the Ross Sea, which could have resulted in the spillage of chemicals and hundreds of tonnes of fuel oil.<sup>173</sup>

Australia claimed that Japan's "scientific" whaling programs in Antarctic waters since 1989 broke the 1946 International Convention for the Regulation of Whaling (ICRW) which allows "special permit" whaling in limited circumstances. Australia also argued that since the research was in the Antarctic Treaty area the Antarctic Treaty System (ATS) was also relevant. Thus the case revolved around the ancillary environmental impacts of whaling in the highly sensitive Antarctic marine environment. The Canberra panel's key argument was that the provisions of the 1991 Environmental Protocol to the Antarctic Treaty (Environmental Protocol) could be invoked against Japan. It stressed that the compliance provisions found in Article 13 oblige Japan to justify to other parties to the ATS, that JARPA II does not have adverse impacts on the Antarctic environment, and also allow other parties concerned at such impacts to raise the issue for discussion in the Antarctic Treaty Consultative Meeting (ATCM). This meant that Australia condemned Japanese whaling not only as a violation of its waters, but also because it was environmentally hazardous. Australia's attempt was to use the ATS to make Japan more accountable for its conduct of JARPA by imposing additional safeguards for the Antarctic environment in relation to JARPA II. Implicitly compliance with such regulations, the Australian government hoped would increase the difficulties faced by Japan in operating its whaling fleet in the Southern Ocean, and ultimately contribute to the complete cessation of Japanese special permit whaling in Antarctica.

The strategy was adopted since the IWC was at a stalemate. Japan has conducted whaling operations in the Southern Ocean after 1986 under the auspices of the "scientific research" or "special permit" exception embodied in Article VIII of the 1946 Whale Convention. It was this exception that was challenged by Australia, and which the court upheld as valid.

<sup>173</sup> Report of the Canberra Panel, 2009.

On the 31st of March, 2014, the International Court of Justice in The Hague, the Netherlands, found that Japan's justification for killing thousands of minke whales in the Southern Ocean since the mid-1990s was not valid. The case against Japan had been upheld even though legal experts had doubts at the chances for victory.

“Although Australian politicians had for some time threatened such a course of action, the decision to proceed with international litigation took many observers by surprise, most basically because Japan appeared to be in a strong legal position and the risks associated with the case appeared greater than Australia's prospects for success.”<sup>174</sup>

<sup>174</sup> See Shirley V. Scott, “Australia's Decision to Initiate Whaling in the Antarctic: Winning the Case Versus Resolving the Dispute”, *Australian Journal of International Affairs* 68,1, 2013, pp. 1., accessed over Researchgate [http://www.researchgate.net/publication/263329363\\_Australia%27s\\_decision\\_to\\_initiate\\_Whaling\\_in\\_the\\_Antarctic\\_winning\\_the\\_case\\_versus\\_resolving\\_the\\_dispute](http://www.researchgate.net/publication/263329363_Australia%27s_decision_to_initiate_Whaling_in_the_Antarctic_winning_the_case_versus_resolving_the_dispute), accessed on April 14, 2014.

## 5 Conclusions

Underlying the whole debate here was an implicit assumption that the Japan continues to whale because culturally it doesn't see it as a problem. The above notion that is already transform into a new debate. Hence, there is probably no end to the politicisation of whaling and thus no end to whaling in the foreseeable future.

This thesis has shown that the whaling dispute between the whaling nations of Iceland, Norway, and Japan go beyond animal cruelty versus environmentalism as has been portrayed. In the case of Japan, which does not have a commercial whaling program, but carries out "scientific whaling" the issue is much more complicated since Japanese whaling is closely linked to identity politics in Japan. The court ruling of the ICJ case indicting Japan for its plans to defy<sup>175</sup>, is seen as a challenge to Japanese identity and culture rather than, as the West sees it, to protect an already endangered species.

However, as this thesis has demonstrated the categories of "endangered", "loveable" etc., when applied to the animal world, are complicated. Some whales are certainly endangered; while others have seen their populations grow. At the core the question is should whaling be allowed if it is sustainable or should it be banned outright? Most nations accept the latter position, but Iceland, Norway, and Japan accept whale-eating and whale-hunting if whaling is sustainable.

All the other issues, regarding cruelty, defiance of international law, the extent to which Australia's Antarctic territories extend, are all connected to this fundamental question. Australia's attempts to project power into the Antarctic Ocean Territories can also be seen as an assertion of Australia's sovereignty in the unexplored South Pole, a region that is likely to increase in importance as it becomes more accessible due to a combination of factors, including global warming, technological progress, and the ability to exploit its natural resources. In this framework the whaling wars can be seen as an old fashioned assertion of sovereignty. It also throws light on the domestic pressures that influence international environmental policy-making. In the case of Japan,

<sup>175</sup> Arthur Neslen, Japan defies IWC ruling on 'scientific whaling', *The Guardian*, September 18, 2014 available online at <http://www.theguardian.com/environment/2014/sep/18/japan-whaling-southern-ocean-iwc-ruling>, consulted on September 21, 2014.

domestic politics demand that Japan defend the economically non-viable whaling industry, in the case of Australia, the way whales have been portrayed as being almost human-like makes the dispute just as passionate.

Ironically, the IWC was created not as a prohibitionist organisation but a way to ensure that the sustainability of whaling. In the 1980s, as a result of domestic politics, especially the rise of environmentalism as a political movement, this changed. The United States was at the forefront of this movement, and as this thesis has shown, domestic politics in the United States, rather than any concern for the welfare of whales was instrumental in creating the anti-whaling consensus.

This explains why Japan is adamant on the whaling issue, but is ready to co-operate on other environmental issues such as climate change. This brings into question how far organisations like the IWC reflect the interests of its members. Decisions at the IWC are taken by majority, and as most nations are anti-whaling Japan, Iceland and Norway will remain isolated.

Finally, the whaling issue throws light on the often complicated love hate relationship that the West has with Japan. This is one reason why the debate on Japanese whaling and whale-eating is much more passionate than the one with Iceland and Norway.

## Bibliography

### Blogs and Press Articles

Andrew Jackson, “Antarctic Sovereignty: Are We Serious?”, *The Strategist*. The Australian Strategic Policy Institute Blog available at <http://www.aspistrategist.org.au/antarctic-sovereignty-are-we-serious/>, accessed on March 24, 2015.

Animal Planet, “Why do the Japanese Hunt Whales?” available online at <http://www.animalplanet.com/tv-shows/whale-wars/about-whaling/why-japanese-hunt-whales/> accessed on January 31, 2015.

Candice Gaukel Andrews, “Japanese Whaling: Truly for Sustainability Science, or Only for Cultural Consistency?” July 1, 2014, available online at <http://goodnature.nathab.com/japanese-whaling-truly-for-sustainability-science-or-only-for-cultural-consistency/>, accessed on February 2, 2014.

Clarke, Sarah, “Japan threatens to leave International Whaling Commission”, *The World Today*, June 1, 2007, ABC news Australia, available online at <http://www.abc.net.au/worldtoday/content/2007/s1939858.html>, accessed on February 1, 2015.

Kevin John Heller, “Opinio Juris” Blog Archive Sea Shepherd, Piracy, and the “High Seas”, *Opinio Juris*, <http://opiniojuris.org/2013/03/01/sea-shepherd-piracy-and-the-high-seas>.

Sea Shepherd, The Whales Have Won! ICJ Rules Japan’s Southern Ocean Whaling “Not for Scientific Research”, March 31, 2014, available at <http://www.seashepherd.org/news-and-media/2014/03/31/the-whales-have-won-icj-rules-japans-southern-ocean-whaling-not-for-scientific-research-1569>, accessed on February 1, 2015.

Takver-Sydney, Indymedia, “Japanese Whaling Found to Be Illegal under Australian Law”: *Indybay*. Accessed on April 29, 2014, available at <http://www.indybay.org/newsitems/2008/01/15/18472805.php>.

World Wildlife Fund, A History of the International Whaling Commission, “Where did the Idea of the International Whaling Commission come from and Why?”, available online at [http://wwf.panda.org/what\\_we\\_do/endangered\\_species/cetaceans/cetaceans/inv/history/](http://wwf.panda.org/what_we_do/endangered_species/cetaceans/cetaceans/inv/history/).

#### Court Decisions

Donald R. Rothwell, “Australia v. Japan: JARPA II Whaling Case before the International Court of Justice Proceedings instituted by Australia against Japan: Application Instituting Proceedings”, 31 May 2010, The Hague Justice Portal, available online at [http://www.haguejusticeportal.net/Docs/Commentaries%20PDF/Portal%20HJ\\_J\\_Rothwell\\_Aust\\_Japan\\_EN.pdf](http://www.haguejusticeportal.net/Docs/Commentaries%20PDF/Portal%20HJ_J_Rothwell_Aust_Japan_EN.pdf); accessed on December 22, 2014.

Institute of Cetacean Research, Kyodo Senpaku Kaisha, Ltd., a Japanese Corporation, Tomoyuki Ogawa and Toshiyuki Miura, versus Sea Shepherd Conservation Society, An Oregon Nonprofit Corporation; Paul Watson, An Individual. Seattle: United States District Court For The Western District Of Washington. Available online at <http://www.winston.com/images/content/1/2/127.pdf>, accessed on January 31, 2015.

International Court of Justice “Whaling in the Antarctic (Australia v. Japan: New Zealand intervening) The Court finds that Japan’s whaling programme in the Antarctic (JARPA II) is not in accordance with three provisions of the Schedule to the International Convention for the Regulation of Whaling“, ICJ press release No. 2014/14 31 March 2014, available online at <http://www.icj-cij.org/docket/files/148/18162.pdf>, accessed on February 1, 2015

#### International Treaties and Conventions

International Whaling Convention (IWC) Resolution on JARPA, IWC Res. 2007-1, <http://www.incoffice.org/meetings/resolutions/Resolution2007-1.pdf> [hereinafter Resolution on -JARPA].

Conference on Antarctica, The Antarctic Treaty, 1961, [http://www.ats.aq/documents/ats/treaty\\_original.pdf](http://www.ats.aq/documents/ats/treaty_original.pdf), consulted on April 24, 2014.



International Whaling Convention, Key documents, The International Whaling Convention, available online at <https://iwc.int/convention>.

British Antarctic Survey, National Environment Research Council, Secretariat of the Antarctic Treaty, “The Antarctic Treaty”, available online at <http://www.ats.aq/e/ats.htm>, accessed on January 31, 2015.

### Press Releases

International Court of Justice, “Whaling in the Antarctic (Australia v. Japan: New Zealand intervening) The Court finds that Japan’s whaling programme in the Antarctic (JARPA II) is not in accordance with three provisions of the Schedule to the International Convention for the Regulation of Whaling“, ICJ press release No. 2014/14 31 March 2014, available online at <http://www.icj-cij.org/docket/files/148/18162.pdf>, accessed on February 1, 2015.

### Government Documents

#### Australia

Government of Australia, Department of the Environment, “History of Whaling in Australia”, <http://www.environment.gov.au/marine/marine-species/cetaceans/whaling>.

Government of Australia, Department of the Environment, “History of Whaling in Australia”, <http://www.environment.gov.au/marine/marine-species/cetaceans/whaling>.

Government of Australia, Department of the Environment, Australian Antarctic Division, “Areas, Lengths, Heights and Distances — Australian Antarctic Division”, Australian Antarctic Division, Leading Australia’s Antarctic Program, <http://www.antarctica.gov.au/about-antarctica/history/exploration-and-expeditions/the-australian-antarctic-territory>.

Government of Australia, Department of the Environment, Australian Antarctic Division. “Who Owns Antarctica? — Australian Antarctic Division”, Australian Antarctic Division, Leading Australia’s Antarctic Program, available at <http://www.antarctica.gov.au/about-antarctica/history/exploration-and-expeditions/the-australian-antarctic-territory>.

Government of Australia, Department of the Environment, Australian Antarctic Division. “Australian Antarctic History.” Australian Antarctic

Division, Leading Australia's Antarctic Program, available online at <http://www.antarctica.gov.au/about-antarctica/history/exploration-and-expeditions/the-australian-antarctic-territory>.

Government of Australia, Department of the Environment, Australian Antarctic Division. "Who Owns Antarctica? — Australian Antarctic Division", Australian Antarctic Division, Leading Australia's Antarctic Program, available online at <http://www.antarctica.gov.au/about-antarctica/history/exploration-and-expeditions/the-australian-antarctic-territory>.

Government of Australia, Report of the Canberra Panel. Japan's "Scientific" Whaling Program and the Antarctic Treaty System Independent Panel of Legal and Policy Experts, January 2009, available at <http://cbialdia.mardecetaceos.net/archivos/download/ReporteCanberra%201527.pdf>

#### Japan

Government of Japan, Plan for the Second Phase of the Japanese Whale Research Program under Special Permit in the Antarctic (JARPA II) Monitoring of the Antarctic Ecosystem and Development of New Management Objectives for Whale Resources, available online at <http://www.icrwale.org/eng/SC5701.pdf>.

Government of Japan, Plan for the Second Phase of the Japanese Whale Research Program under Special Permit in the Antarctic (JARPA II) – Monitoring of the Antarctic Ecosystem and Development of New Management Objectives for Whale Resources, 2005, available online at <http://www.icrwale.org/pdf/SC5701.pdf>.

#### Reports

Stephens, Tim, "The Journey to The Peace Palace: Building the Whales Case", Sydney Center for International Law, April 15, 2014, report available at [http://sydney.edu.au/law/events/2014/Apr/Rapid\\_Response\\_Whales\\_03042014.pdf](http://sydney.edu.au/law/events/2014/Apr/Rapid_Response_Whales_03042014.pdf).

#### News Media

Mark Willacy, "Greenpeace says Japanese whaling ship de-registered", Australian Broadcasting Corporation, Radio Australia, <http://www.radioaustralia.net.au/international/2009-01-23/greenpeace-says-japanese-whaling-ship-deregistered/135322>.

## Books and Journals

Anton, D. K. (2009), "Antarctic Whaling: Australia's Attempt to Protect Whales in the Southern Ocean", *BC Env'tl. Aff. L. Rev.* 36: 319.

Bailey, Jennifer L., "Arrested development: the fight to end commercial whaling as a case of failed norm change", *European Journal of International Relations* 14.2 (2008): 289–318.

Betsill, M. M., and E. Corell (2008), *NGO diplomacy: the influence of nongovernmental organizations in international environmental negotiations*, MIT Press.

Bockstoce, J. R. N. B. W. M. (1995), *Whales, ice, and men: the history of whaling in the Western Arctic*, Seattle, University of Washington Press.

Bouk, D., and D. G. Burnett (2008), "Knowledge of Leviathan: Charles W. Morgan Anatomizes His Whale", *Journal of the Early Republic* 28(3): 433–466.

Cadigan, S. T. (2006), "Twentieth-Century Shore-Station Whaling in Newfoundland and Labrador (review)", *The Canadian Historical Review* 87(3): 515–517.

Curvelo, Alexandra, "Nagasaki/Deshima after the Portuguese in Dutch Accounts of the 17th Century", *Bulletin of Portuguese-Japanese Studies* (6), 2003: pp. 147–157.

Davis, L. E., et al. (1988), "The Decline of US Whaling: Was the Stock of Whales Running Out?", *Business History Review* 62 (04): 569–595.

Deal, R. (2013), "The judicial invention of property norms: Ellickson's whalemens revisited", *University of Toronto Law Journal* 63 (1): 73–96.

Dilworth, C. (2010), *Too Smart for Our Own Good: The Ecological Predicament of Humankind*, New York, Cambridge University Press.

Doel, p. A. (2012), "So Ends This Day: The Portuguese in American Whaling 1765–1927 by Donald Warrin (review)", *Luso-Brazilian Review* 49(2): 260–262.

Dolin, E. J. (2007), *Leviathan: The History of Whaling in America*, New York, W.W. Norton & Co.

Epstein, C. (2006), "The Making of Global Environmental Norms: Endangered Species Protection", *Global Environmental Politics* 6(2): 32–54.

Epstein, C. (2008), "The power of words in international relations birth of an anti-whaling discourse." The role of discursive power in shaping international relations analysed through the lens of whaling politics.

Favre, David S., *International Trade in Endangered Species: A Guide to CITES [Convention on International Trade in Endangered Species]*, Leiden, Brill, 1989.

Falnes, J. (2006). "Twentieth-Century Shore-Station Whaling in Newfoundland and Labrador (review)", *Technology and Culture* 47(4): 869–870.

Farrell, R. (2008), *Internationalisation of Japanese Business*, Cheltenham, Elgar.

Gaard, G. C. (2001). "Tools for a Cross-Cultural Feminist Ethics: Exploring Ethical Contexts and Contents in the Makah Whale Hunt", *Hypatia* 16(1): 1–26.

Gillespie, A. (2005). *Whaling Diplomacy: Defining Issues in International Environmental Law*, Edward Elgar Publishing.

Hilt, E. (2004), "Incentives in Corporations: Evidence from the American Whaling Industry", National Bureau of Economic Research Working Paper Series No. 10403.

Hodges, B. T. (2000), "Cracking Facade of the International Whaling Commission as an Institution of International Law: Norwegian Small-Type Whaling and the Aboriginal Subsistence Exemption, The", *J. Envtl. L. & Litig.* 15: 295.

Hohman, E. P. (1928), *The American Whaleman. A Study of Life and Labour in the Whaling Industry*, New York, Longmans, Green and Co.

IWC, I. W. C. (2014). "Scientific Permit Whaling", retrieved December 3, 2014, available at <http://iwc.int/permits>.

- Jensen, A. M. (2012), "The Material Culture of Iñupiat Whaling: An Ethnographic and Ethnohistorical Perspective", *Arctic Anthropology* 49(2): 143–161.
- Jensen, C. B. and A. Blok (2013), "Techno-animism in Japan: Shinto cosmograms, actor-network theory, and the enabling powers of non-human agencies", *Theory, Culture & Society* 30(2): 84–115.
- Kagawa-Fox, M. (2014), *Ethics of Japan's Global Environmental Policy. The Conflict between Principles and Practice*, [S.l.], Routledge.
- Kalland, A. (1993), "Whale politics and green legitimacy: A critique of the anti-whaling campaign", *Anthropology Today*: 3–7.
- Kalland, A. (1994), "Super whale: The use of Myths and symbols in environmentalism", *The High North Alliance* 11.
- Kalland, A. (2009), *Unveiling the Whale: Discourses on Whales and Whaling*, New York, Berghahn Books.
- Kalland, A. and B. Moeran (1992), *Japanese Whaling: End of an Era?*, Curzon Press Ltd.
- Kurlansky, M. (2011), *Basque History of the World*, Knopf Canada.
- Kushner, H. I. (1972). "“Hellships”: Yankee Whaling along the Coasts of Russian-America, 1835–1852." *New England Quarterly*: 81–95.
- Lambourne, L. (2005), *Japonisme: Cultural crossings between Japan and the West*, Phaidon.
- Leary, D. (2008), "Standing of Civil Society to Enforce Commonwealth Environmental Law under Section 475 of the Environment Protection and Biodiversity Conservation Act and Its International Implications: The Japanese Whaling Case and the Law of Unintended Consequences", *The Macquarie LJ* 8: 153.
- Mandel, R. (1980), "Transnational resource conflict: The politics of whaling", *International Studies Quarterly*: 99–127.
- Miller, A. R., and N. Dolšak (2007), "Issue Linkages in International Environmental Policy: The International Whaling Commission and Japanese Development Aid", *Global Environmental Politics* 7(1): 69–96.

Morell, V. (2014), "Court Slams Japan's Scientific Whaling", *Science* 344(6179): 22–22.

Morikawa, Jun (2009), *Whaling in Japan: Power, Politics, and Diplomacy*, London, Hurst.

Murata, K. (2007), "Pro-and anti-whaling discourses in British and Japanese newspaper reports in comparison: a cross-cultural perspective", *Discourse & Society* 18(6): 741–764.

Nicholas, M. A. (2002), "Mashpee Wampanoags of Cape Cod, the Whalefishery, and Seafaring's Impact on Community Development", *The American Indian Quarterly* 26(2): 165–197.

Oran R., Young, et al. "Subsistence, Sustainability, and Sea Mammals: Reconstructing the International Whaling Regime", *Ocean & Coastal Management* 23, 1, 1994: pp. 117–127.

Oslund, K. (2010). "Leviathan: The History of Whaling in America (review)", *Technology and Culture* 51(3): 745–746.

O'Sullivan, S. (2012), "Whaling in Japan: power, politics and diplomacy", *Environmental Politics* 21(1): 184–186.

Parker, Michelle, "Harpoons or Heroes: The International Whaling Commission Treads Icy Water over the Ban on Commercial Whaling", *New England Journal International & Competitive Law* 18, 2012, pp. 445.

Peace, A. (2010), "The whaling war: Conflicting cultural perspectives (Respond to this article at <http://www.therai.org.uk/at/debate>)", *Anthropology Today* 26(3): 5–9.

Perrin, W. F. (2009), *Encyclopedia of Marine Mammals*, Amsterdam, Elsevier.

Rockman, S. (2001). "Captain Ahab Had a Wife: New England Women and the Whalefishery, 1720–1870 (review)." *Biography* 24(4): 973–975.

Sakakibara, C. (2010), "Kiavallakkikput Agviq (Into the Whaling Cycle): Cetaceousness and climate change among the Iñupiat of arctic Alaska", *Annals of the Association of American Geographers* 100(4): 1003–1012.

Sato, Y., and K. Hirata (2008), *Norms, Interests, and Power in Japanese Foreign Policy*, Palgrave Macmillan.

Schell, J. (2008), "Figurative Surveying: National Space and the Nantucket Chapters of J. Hector St. John de Crèvecoeur's Letters from an American Farmer", *Early American Literature* 43(3): 581–604.

Scott, S. V. (2008), "Intergovernmental Organizations as Disseminators, Legitimizers, and Disguisers of Hegemonic Policy Preferences: The United States, the International Whaling Commission, and the Introduction of a Moratorium on Commercial Whaling", *Leiden Journal of International Law* 21(03): 581–600.

Scott, S. V. (2013), "Australia's decision to initiate Whaling in the Antarctic: winning the case versus resolving the dispute", *Australian Journal of International Affairs* 68(1): 1–16.

Skodvin, T., and S. Andresen (2003), "Nonstate Influence in the International Whaling Commission, 1970–1990", *Global Environmental Politics* 3(4): 61–86.

Sowa, F. (2013), "Indigenous Peoples and the Institutionalization of the Convention on Biological Diversity in Greenland", *Arctic Anthropology* 50(1): 72–88.

Stalker, N. (2012), "Strange Nuptials: Matthew Barney's Japan in Drawing Restraint 9", *positions: east asia cultures critique* 20(4): 1191–1213.

Strausz, M. (2014), "Executives, legislatures, and whales: the birth of Japan's scientific whaling regime", *International Relations of the Asia-Pacific* 14(3): 455–478.

Susskind, L. (2014), *Environmental Diplomacy*, Oxford, Oxford University Press.

Tønnessen, J. N., and A. O. Johnsen (1982), *The History of Modern Whaling*, University of California Press.

Vickers, Daniel. "The first whalers of Nantucket", *The William and Mary Quarterly: A Magazine of Early American History* (1983): 560–583.

Zboray, R. J. (1980), “The Real and the Realistic in Down to the Sea in Ships (1923)”, *Film & History: An Interdisciplinary Journal of Film and Television Studies* 10(3): 33–38.

#### Newspapers

Alan Yuhas, “Sea Shepherd Conservation Group Declared ‘Pirates’ in US Court Ruling”, | *The Guardian*, February 27, 2013, <http://www.theguardian.com/environment/2013/feb/27/sea-shepherd-pirates-us-court>, accessed on April 15, 2014.

Shrikesh Laxmidas, “Japan, Norway subsidizing unprofitable whaling”, June 18, 2009, available at <http://www.reuters.com/article/2009/06/19/us-whaling-nmf-idUSTRE55I00M20090619>, accessed on January 15, 2014.

Arthur Neslen, Japan defies IWC ruling on “scientific whaling”, *The Guardian*, September 18, 2014 available online at <http://www.theguardian.com/environment/2014/sep/18/japan-whaling-southern-ocean-iwc-ruling>, accessed on April 15, 2014.



## Appendix

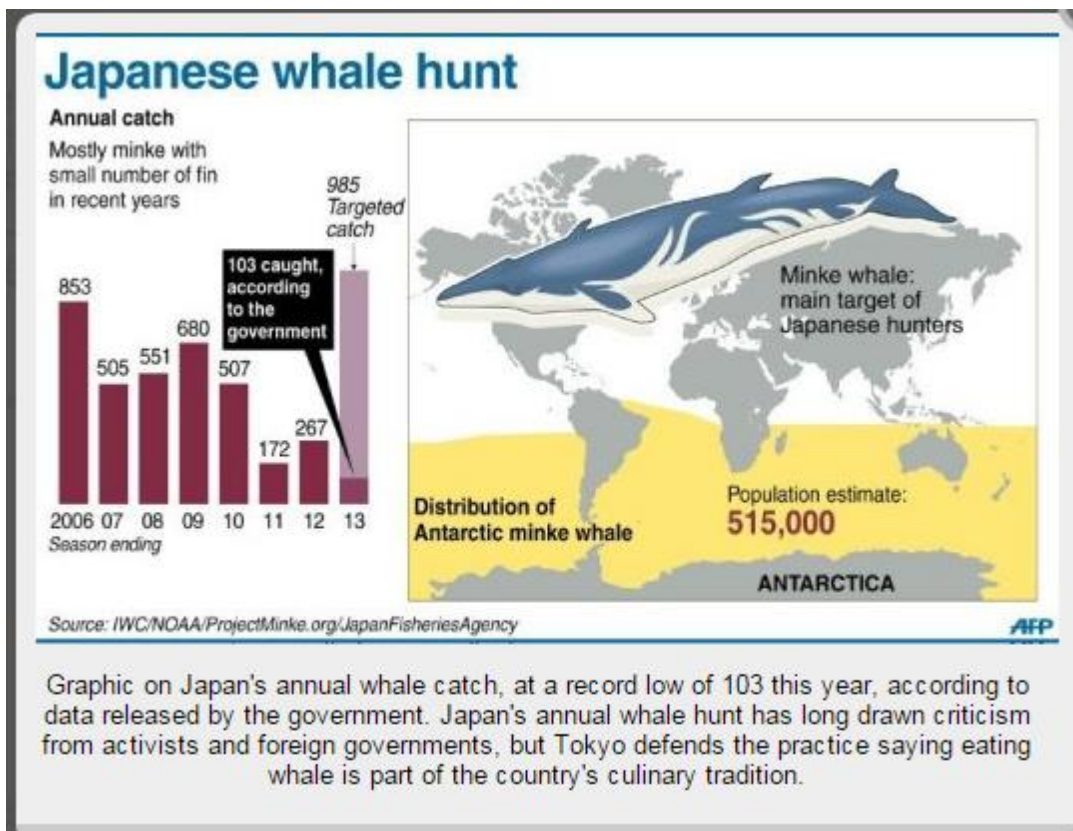


Image 1: "Japanese Whale Hunt", <http://www.abc.net.au/news/2014-04-08/whaling-around-the-world-how-japans-catch-compares/5361954>, accessed on December 15, 2014.

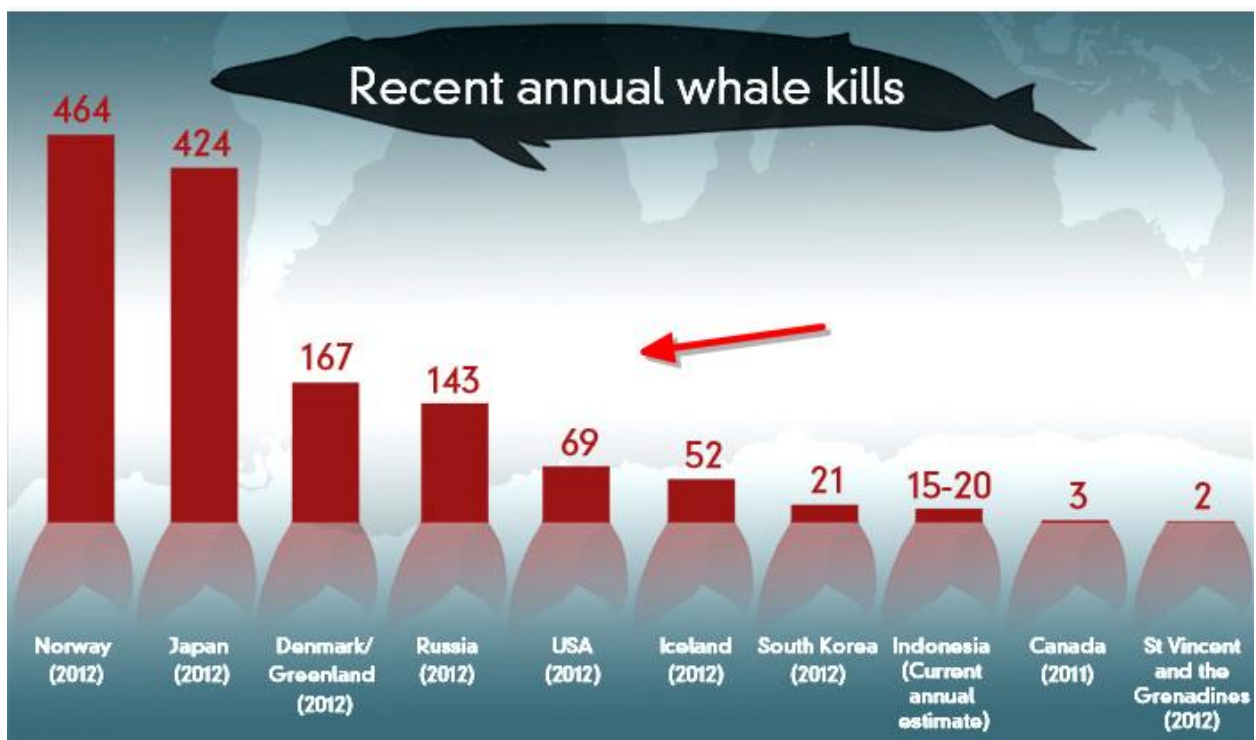


Image 2: “Recent Annual Whale Kills”,  
<http://www.abc.net.au/news/2014-04-08/whaling-around-the-world-how-japans-catch-compares/5361954>, accessed on December 15, 2014.

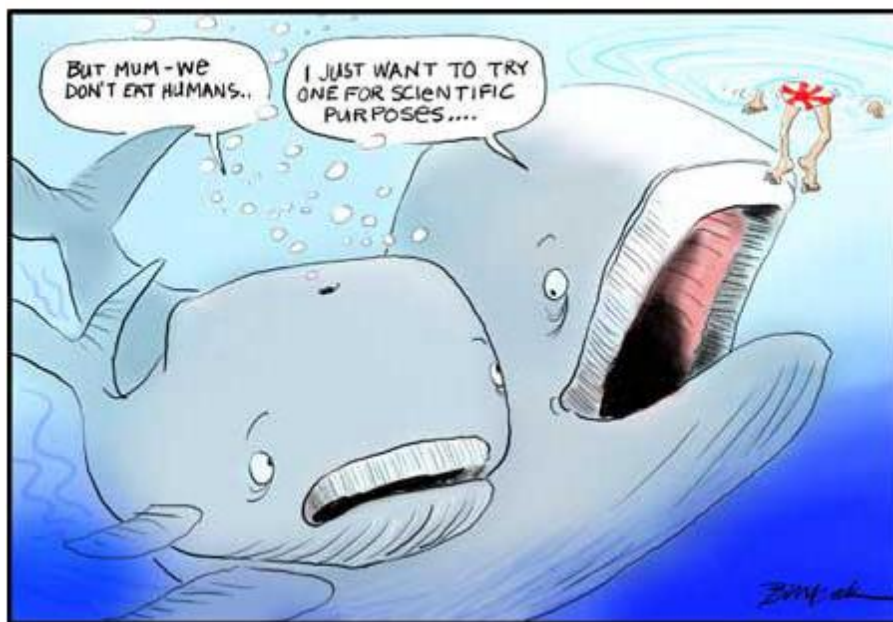


Image 3: Cartoons showing Western attitudes to Japanese whaling programs. Source: Candace\_Calloway\_Whiting, Japanese “Research” Whalers vs Sea Shepherd – Sunday “What Are They Thinking?”, available at <http://blog.seattlepi.com/candacenwhiting/2012/02/25/japanese-research-whalers-vs-sea-shepherd-sunday-what-are-they-thinking-category/>, accessed December 16, 2014.

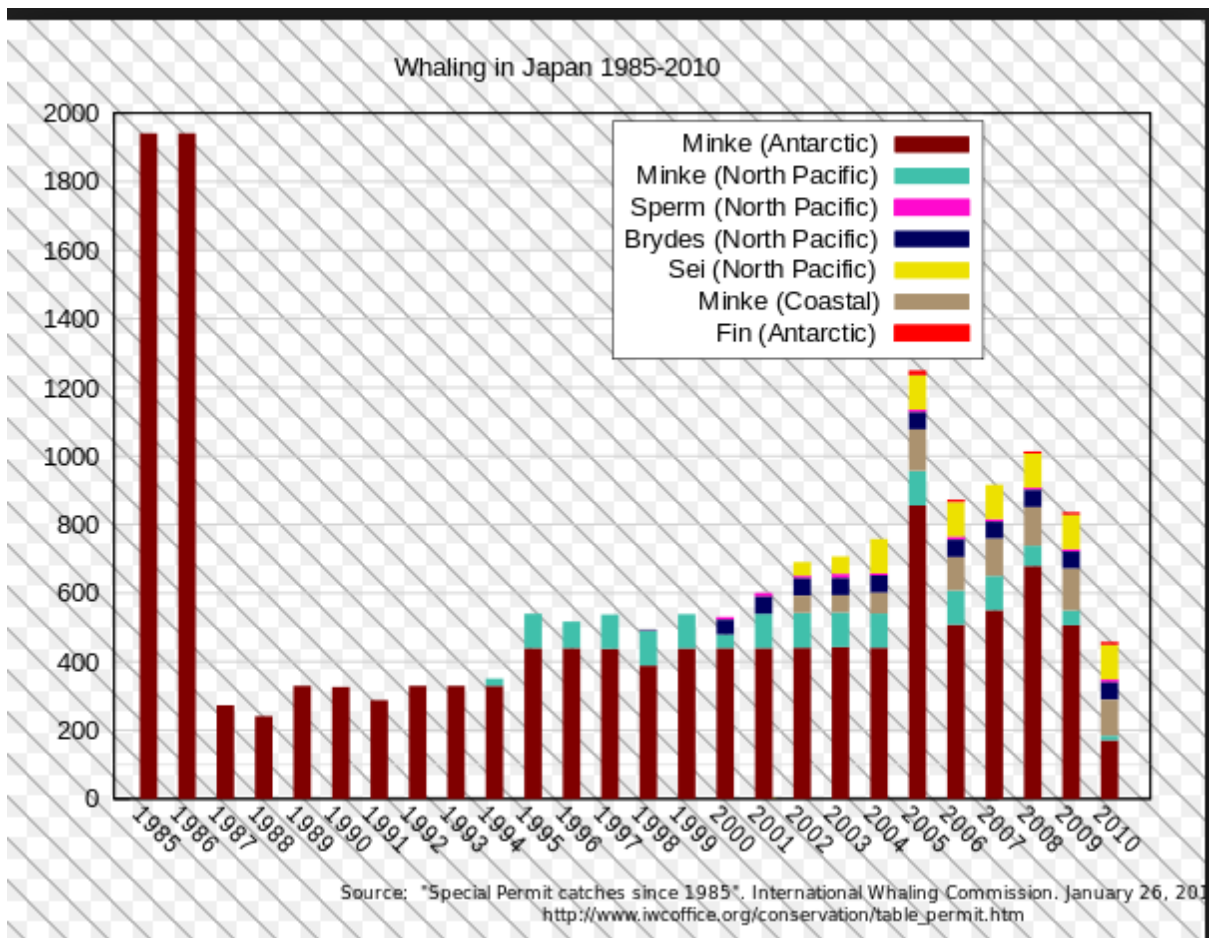


Image 4: Japanese whaling since 1985 available at [http://commons.wikimedia.org/wiki/File:Japan\\_whaling\\_since\\_1985.svg](http://commons.wikimedia.org/wiki/File:Japan_whaling_since_1985.svg), accessed on December 15, 2014.

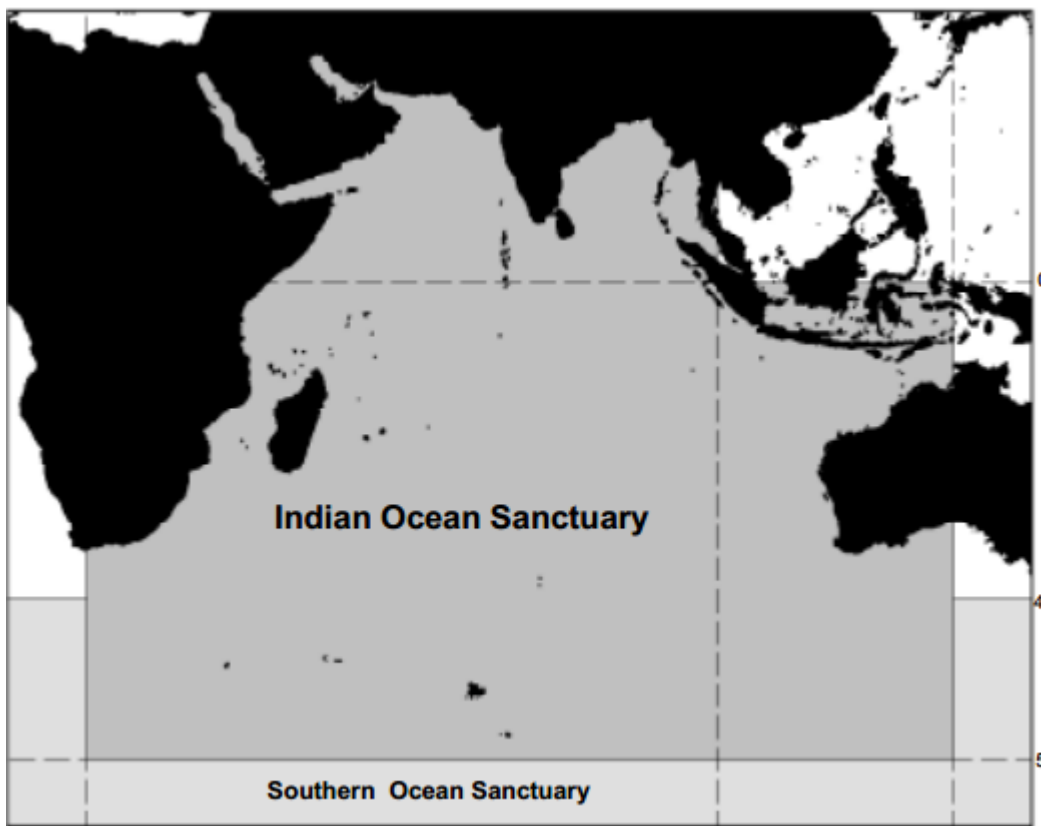


Image 5: The Indian Ocean Whale Sanctuary which covers the whole of the Indian Ocean south to 55°S.

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### PROFESSIONAL PROFILE

- Demonstrated effective knowledge management, product development, HR, corporate social sustainability as part of profession
- Investigated Standardization process and policy implementation plans across Steelmaking divisions
- Extensive knowledge science technology & society issues, energy & environment policies
- Achieved accolades throughout my career research achievements and professional capacities
- Experienced in human relations manager with working Continuous Improvement consulting and delivering product customizations

### SKILLS

- Continuous improvement consulting with Marketing ,Sales and IT department in matrix structure responsible for brainstorming ideas on new product & process innovations. Managing to increasing profits from existing items coordination to result in new regional solutions
- Identifying technology transfer areas for new steel and transport knowledge by communicating with performance improvement teams (PIT) to deliver on key market changes
- As part of Knowledge management in IT and R&D succeeded to build products from existing ideas, help to develop new ideas based on current industry trends, experience and contact with customers and prospects through a unique blend of business and technical savvy big-picture vision, and the drive to make that vision a reality
- Computer skills: 4Q Toyota Training, SAP HR, Webex, A3 Problem Solving Task Achieving Story, SharePoint Content management; Citrix, MS Office, Area Studies , Green House Gas emission protocol, CACP 2009
- Languages: English (business Fluent), Hindi (Native), German (Beginners A2-B1 Exam results awaited!)

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#### Global History Department, University of Vienna, Austria (Final year)

##### Master of Arts, Global Studies, GPA 2.00

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Oct 2013

##### Master of Arts, Global Studies, GPA 2.00

#### Xavier Institute of Social Service, Ranchi, India

May 2007

##### Post Graduate Diploma in Personnel Management (with Honors 70.95%)

#### K.C. College, Ranchi University, India

Jun 2004

##### Bachelors of Commerce, Mass Communication and Video Production (70.10%)

### PROFESSIONAL EXPERIENCE

#### Manager HR Business Partner TQM, Tata Steel

Aug 2007– Jul 2010

- Participated in the research analysis of market trends and changes in steel business practices to articulate business objectives and strategy of the annual business plan of corporate division via 70:20:10 learning.
- Conducted Market Visits and shop floor visits known as “GEMBA” in (Japanese style TPM) for inputs and knowledge leveraging. spending time in the market to understand their problems, and find innovative solutions for the broader market and deliver competitive advantage through technology
- Able to communicate with all areas of the company and with business unit stakeholders to define product release requirements. Articulate R&D feedback to regional IT Customer Solutions Management team and business sales and marketing communications to finalize the “Go-Live” market strategy with IT built customer capabilities, helping them understand the product positioning, key benefits, and target customer
- Plan a strategy for Inclusion & Diversity in Recruiting, employment for rural development and growth, focus on retention strategies aligned with corporate. Implement action plan using innovative ways to build a diverse talent pool and innovative recruiting avenues

- Coordinating with departmental heads to review a KPI linked performance bonus, career progress of officers via the performance appraisal systems and holistic view of business units learning and development needs.

**Senior Manager TQM (KM, MIS, BA), Tata Steel Ltd**

Aug 2010–March 2014

- Rollout & implement communication portal strategy & online Knowledge management of executives across all locations, including Europe
- Catalyze and champion events that create opportunities to promote and enhance strong partnerships with corporate donors
- Support the circulation development of publications or materials for targeted audiences through corporate communications
- Reporting senior executives details of successes factors and challenges associated in corporate marketing strategy
- Serve as the internal and external evangelist for our product offering in full alignment to the long-term Global IT strategic programs, occasionally working with the sales channel and key customers.
- Strategically and deliver exceptional user experience and business value across all customer touch points and within the IT organization.
- Driving technology simplification and standardization across the region; and is expected to represent both the business perspective & requirements in balance to the global IT solutions and capabilities aiming to align, standardize and bring the most value to the business.
- Group setting of quality standards; awareness on Document Management systems (e.g. trainings, skills-shares, peer to peer exchange) and collaborative sharing and learning practices; developing and setting up tools and processes; monitoring effectiveness and evaluating impact in terms of organizational benefits.
- Design, deliver and rollout promotion of a knowledge sharing platform for promoting innovation culture throughout global website by setting up the group knowledge management portal – Store, codify, share strategic knowledge. Reward and recognize knowledge sharing efforts, activity involvement in innovation. Capture Product and Process innovation Leading Edge, Dare to Try and Promising Innovations
- Managing effectiveness in Product development through KM tools deployment that are social and collaborative example : activity scheduler, meeting calendars, buzz feed , ask expert or discussion forums to facilitate sharing of learning, opinions and ideas example MASS
- Work with Strategic Priority Area (SPA) leaders and country programs to identify and assess opportunities for shared value with corporate partners. Engage in market research to identify possible opportunities for leveraging and improving competitive positioning for future funding and program impact
- Develop and maintain a robust database of business intelligence to ideate plans, win-win themes, with cooperation from R&D Center.
- Deep expertise in customer “Know How”, business processes, user experience design, information architecture, usability, accessibility, learning content, web strategy, content strategy, multi-channel architecture in close coordination with regional IT Customer Solutions Management
- Integrate KM-IT tools impact with implementation status of KM Charter.
- Use of Ideation workshops, evaluating Bench marking through best practice identification workshops and dashboard monitoring of top 5 KPI from all divisions

**Student work at Global & European Studies Institute , University of Leipzig**

Jan 2012– Mar 2012

- Provided comparative research analysis as Customer Sales Representative for Bio-technology medicines, HBS Consulting, Leipzig Germany
- Developed a successful model of storing and recording and referencing of online knowledge pieces, abstracts and documents Uni. Leipzig

**Post Graduate Internship “Ascertaining the Employee Dissatisfaction levels in Coke Sinter Iron Division”**

**Tata Steel**

May 2006–Jul 2006

- Analyzed through survey finding on factors affecting employee dissatisfaction in harsh working conditions. Recommend strategies to alleviate the workers problems. Identifying the underlying psychological trends for dissatisfaction and its importance to the company.

**Bachelors Internship in “Process mapping of Media Management of Corporate Communications department”**

**Tata Steel**

Feb 2004- Apr 2004

**AWARDS & PRINTS**

- Directed a short drama film “Lucky“ for Film Appreciation Course May 2004
- Loyola IHS School, Jamshedpur, Achievement Award as a “Man against all odds” Apr 2001

**LEADERSHIP EXPERIENCE**

- EMGS Alumni Association Member Active
- TISCO Employee Family Benefit Scheme Secretary 2007- 2010
- Employee Separation Scheme Secretary 2009–2010