

Arrested Development

"The Prohibition of Commercial Whaling" as a Case of Failed Norm Change¹

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The International Whaling Commission voted in 1982 to halt all commercial whaling. It adopted a moratorium, scheduled to take effect in 1986, on the take on all species of great whales. The meaning of this action has been disputed ever since. While some states and organizations undertook to establish the scientific knowledge and management procedures that would allow commercial whaling to resume², other states and many anti-whaling NGOs considered the moratorium as simply a diplomatic way of saying that commercial whaling was finished. These claimed a major moral victory. On the face of it, they were right. Twenty-three years on, the IWC has still not lifted this blanket moratorium, not even for whale species that its own Scientific Committee agrees could tolerate a yearly take.

But from the vantage point of 2006, the meaning of the IWC action is ambiguous. Norway never withdrew its objection to the moratorium (as did the then USSR, Peru and Japan). After suspending coastal whaling operations briefly, Norway resumed commercial whaling in 1993, and this year's quota (2006) will be the highest since the moratorium went into place. Norway has also resumed the export of whaling products. Aboriginal whaling never stopped, nor has scientific whaling. Anti-whaling activists have worked for years to remove any ambiguity with respect to the meaning of the moratorium by creating more "whale sanctuaries" but such proposals have failed in recent years to win the required votes.³ In the companion issue of the trade in whale products, votes at CITES meetings indicate an erosion of support of the listing of all great whales on Appendix I.⁴ Yearly efforts to lift the moratorium continue, indicating that the norm is still "in play" – and it is losing round. At the 2006 meeting, a slim majority (33 to 32) of IWC members voted in favor of what the

² Paragraph 10(e) of the IWC schedule reads: "(e) Notwithstanding the other provisions of paragraph 10, catch limits for the killing for commercial purposes of whales from all stocks for the 1986 coastal and the 1985/86 pelagic seasons and thereafter shall be zero. This provision will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits."

³ "Two additional proposals for the establishment of sanctuaries in the South Atlantic and South Pacific have been submitted to the Commission for a number of years. To date, both have failed to achieve the three-quarters majority of votes needed to change the Schedule and become designated IWC Sanctuaries" (IWC 2005b).

⁴ Appendix I prohibits all trade in listed species and products derived from them. There is growing support to move selected species to Appendix II which would permit closely monitored trade (from my 1998 paper).

Economist called a “pro-whaling screed” that condemned the moratorium (24 June 2006: 94).⁵

The anti-commercial whaling movement, then, has clearly lost its momentum. What has gone wrong? Using the tools developed by Finnemore and Sikkink (1998), this paper examines the movement to stop commercial whaling as an attempt at norm change. Their tool box helps us track the life-cycle to date of this norm on the one hand, and suggests reasons why this new norm has not achieved the status of internalization. These have to do with the character of the norm, the arguments used to support the norm, the identities of the actors on each side, and the process by which the IWC victories were achieved. The paper then considers what this case can teach us about the norm life-cycle approach. In conclusion, this paper argues that the bid for norm transformation has generally failed; evidence suggests that the anti-whaling movement has still contributed positively to a transforming of the pre-existing norm. This yields, finally, prescriptions for the way forward for both sides.

The Finnemore and Sikkink Tool Box

The turn towards recognizing the importance of institutions in international affairs is bound up with the recognition of the importance of norms and values to social order at any level of analysis. Finnemore and Sikkink (1998: 893), for example, argue that norms are of critical importance to successful law-making at both the international and domestic levels. They examine the process by which norms change at the international level, outlining what they call the “norm life cycle”. This cycle consists of three broad stages: “norm emergence”, “norm cascade” and “internationalization”. In the first stage, human agency and contingency are of striking importance. As Finnemore and Sikkink put it, “norms do not appear out of thin air; they are actively built by agents having strong notions about appropriate or desirable behavior in their community” (1998:896). In many cases, the researcher can identify specific individuals who have fought to put the new norm on the international agenda. Because norm

⁵ Among other things, Resolution 2006-1, “St. Kitts and Nevis Declaration,” noted that the moratorium “is not longer necessary”, rejected “as unacceptable . . . NGOs with self-interest campaigns . . . [that use] threats in an attempt to direct government policy on matters of sovereign rights related to the use of resources for food security and national development”, and declared “our commitment to normalizing the functions of the IWC based on the terms of the ICRW and other relevant international law, respect for cultural diversity and traditions of coastal peoples and the fundamental principles of sustainable use of resources, and the need for science passed policy and rulemaking that are accepted as the world standard for the management of marine resources.

entrepreneurs are seeking to break down old norms, they often act in ways that are deliberately provocative or even offensive. To proceed to the next phase, norms must usually be institutionalized in some setting. This usually happens at the level of individual countries, the end result of strong domestic movements that champion the new norm. Norm promoters need “platforms” through which they can promote their norms: they may create one but frequently take over pre-existing ones.

Once norm entrepreneurs achieve isolated success in individual countries, the norm reaches the “tipping point” and enters into the “cascade” phase. Suddenly, many countries accept the new norm in short order. Finnemore and Sikkink (1998: 901) note both the number and the identity of those states that accept the new norm are important. The dominant mechanism here is socialization: “What happens at the tipping point is that enough states and enough critical states endorse the new norm to redefine appropriate behavior for the identity called “state” or some relevant subset of states (such as a “liberal” state or a European state). States then sign on to the new norm because of “peer pressure:” they seek legitimation, conformity and esteem (1998:903). This “peer pressure” works at the interstate level, with the result that states may come to concur in a new norm without being pushed to do so by a strong domestic movement. This leaves open, of course, the question as to just how deeply the new norm is embedded in such states, or the degree to which social learning takes place. Presumably support for the most successful norms “thickens” over time.

The final stage is “internalization”. At this stage, the norm takes on a “taken-for-granted’ quality. Conformance is simply expected and little discussed. Finnemore and Sikkink suggest several mechanisms by which this might occur, such as the internalization of norms in certain professions that supply personnel to the state or “iterated behavior and habit”. It is important to note that not all norms that reach the tipping point and enter into the norm cascade phase become internalized.

This article examines the emergence and cascade phases of the norm of against commercial whaling. This norm does have some of the features that characterize successful norms, and harmonized with other, more successful norms. Ultimately however, it fails because it has come into contradict with a range of other, more powerful norms. Instead of leading to internalization, the norm cascade phase instead triggered the mobilization of other forces—and rival norms-- that have challenged the legitimacy of the new norm.

Norms and the IWC

What is a norm? Finnemore and Sikkink (1998: 891) report that “there is general agreement on the definition of a norm as a standard of appropriate behavior for actors with a given identity.” Two sorts of norms are frequently identified, regulative, “which order and constrain behavior” and constitutive “which create new actors, interests, or categories of action” (Finnemore and Sikkink 1998: 891). Beyond this, however, things get difficult. The chief difficulty is dealing with the “oughtness” that we all feel goes along with a norm (Florini 1996: 364)⁶. Behavior may be an indicator that a norm is present, but understanding “oughtness” requires some understanding as to “why”, i.e., the moral and logical reasoning upon which the behavior rests. The “why” aspect helps us grasp not only the success of norms but also why they may be displaced.

How can we spot a norm? A genuinely internalized norm should guide both word and deed. Both the behavior of states and the positive acceptance of a stated standard of behavior must be in synchronization. Actions may speak more loudly than words, but it is not always clear what is actually being said. Behavior may be difficult to decode, since compliance may not mean agreement. Talk may be cheap, but can also express aspirations and values.. Accepted, formal codes of conduct can express genuine commitment to a goal even as actual behavior lags behind. At the same time, it is important to recognize that neither words nor actions nor norms are one-dimensional-- even norms that seemingly prescribe a clear standard of behavior. The reasons why certain standards of behavior are observed – the meanings attributed to behavior -- are important to its success and longevity. “Oughtness”, then, has a normative anchoring that are revealed in the arguments made for the standard of behavior. This is important because even when a norm may appear to be hegemonic, that is to say, may seem to be internalized, there still may be significant minorities who do not agree, those whose allegiance is weak, those who support the behavioral standard for their own reasons or those whose behavior is only accidentally in sync with that of the majority: When circumstances change, these may easily defect. The depth and nature of social learning (Checkel 1999) may turn out to be critical for the success and longevity of the norm.

⁶ This paper follows Florini (1996) in adopting the understanding of norms as “a set of intersubjective understandings readily apparent to actors that makes behavioral claims on those actors” (cited in Finnemore 1994:2, fn. 2).

In the case of the whaling, the decisions of the International Whaling Commission (IWC) will serve as the source of explicitly stated standards of conduct. The IWC remains the single international body recognized to have competence in the international management of whales in all maritime waters, despite the challenge posed in recent years by the formation of the North Atlantic Marine Mammal Commission (NAMMCO).⁷ In this context it is useful to consider what practices are specifically condoned and which condemned by that international body. In addition, individual states and NGOs seek to achieve compliance with a norm via the practice of “shaming.” What practices should states be ashamed of and why? The practices of member states, however, will serve as a way of checking the robustness of these purported norms. Do states comply? And are they in fact “ashamed” of supposedly deviant behavior?

Both practice and formally agreed to language indicate that commercial whaling was clearly acceptable to most states through the 1960s and into the early 1970s. The language embodied in the treaty establishing the IWC, the 1946 International Convention for the Regulation of Whaling, clearly blessed the enterprise of whaling for commercial purposes. If anything, it privileged the industry that took the most whales: factory-ship pelagic whaling. The IWC was clearly founded to work for the sustainability of this whaling industry. The IWC, which began operation in 1949, was the latest in a series of efforts to manage the take of whales. The history of the organization and the wording of the International Convention for the Regulation of Whaling (ICRW), make it clear that the enterprise of commercial whaling was fully accepted by the founding parties. While past problems in achieving sustainable management of whales are clearly recognized in the preamble to the convention, the convention is quite clear that the principal motive in establishing the organization was “to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry.” In view of contesting interpretations of the ICRW text, it is worth pointing out here that this is the dominant view among scholars (Burke 2001, Aron 2001: 87; Jacobson 2001: 80).⁸

⁷ Founded in 1992 by Greenland, Norway Iceland and the Faroe Islands.

⁸ The preamble to the ICRW reads as follows:

“Recognizing the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks;

Considering that the history of whaling has seen over-fishing of one area after another and one of one species after another to such a degree that it is essential to protect all species of whales from further over-fishing;

Recognizing that the whale stocks are susceptible of natural increases if whaling is properly regulated and that increases in the size of whale stocks will permit increases in the number of whales which may be captured without endangering these natural resources;

Not only were many nationalities involved in the practice of whaling, all species whales were taken. Whaling took place in many forms, running the gamut from large-scale pelagic operations run by big businesses to community-oriented subsistence coastal whaling. Whale products were furthermore routinely used without comment in a vast array of products. We are familiar with whale oil and whale meat, but, perhaps, less familiar with the use of whales for dog food and margarine. Norwegians even experimented with producing napalm from whale products. Attempts to regulate whaling centered on the issue of sustainability, that is, the sustainability of the whaling industry. Even so, there were hard-fought battles over management issues in the first 15 years of the organization's existence.

The Emergence of a New Norm for Whaling

As the decade of the 1960s opened, the business of whaling as practiced was increasingly problematic and questioned. The first challenges came before the whaling issue became a popular public issue. By all accounts, the IWC as a body had difficulty in establishing the importance of science in setting limits on whaling, particularly with respect to the major whaling enterprises of the Antarctic (the last area in where there were enough whales for the factory ships to pursue). Reflecting the struggle to gain control over this activity, the IWC established the Special Committee of Three (later Four) Scientists to advise the IWC. Even so, many whaling states defied attempts at regulation, and scientific advice was routinely ignored. The existence of the IWC was threatened as key states – the Netherlands, Norway and Japan – withdrew (temporarily) or threatened to withdraw over the issue. As the fight continued, the number of whales declined alarmingly and with them, the industry the IWC had been fashioned to protect. By 1970, many of the most famous and energetic of the whaling states had dropped out of Antarctic whaling: The Netherlands and the United Kingdom had ceased whaling in 1963; Norwegian companies halted whaling in the Antarctic by the end of 1968.⁹ By the time of the moratorium in 1982, only the Japanese

Recognizing that it is in the common interest to achieve the optimum level of whale stocks as rapidly as possible without causing widespread economic and nutritional distress;

Recognizing that in the course of achieving these objectives, whaling operations should be confined to those species best able to sustain exploitation in order to give an interval for recovery to certain species of whales now depleted in numbers;

Desiring to establish a subsystem of international regulation for the whale fisheries to ensure proper and effective conservation and development of whale stocks on the basis of the principles embodied in the provisions of the International Agreement for the Regulation of Whaling, signed in London on 8th June, 1937, and the protocols to that Agreement signed in London on 24th June, 1938 and 26th November, 1946; . . .”

⁹The number of whales reported taken continued to decline and by the time of the 1982 vote in favor of the blanket moratorium the number of states conducting whaling had dwindled dramatically. No countries reported

were still conducting pelagic whaling in the Antarctic. Smaller scale and coastal whaling continued in many places, however. Such enterprises were on quite a different scale than the activity in the Antarctic and seem to have taken place “under the radar screen” in these years.

During these first difficult years of the IWC, the whaling industry was well represented at annual meetings. Representatives were included in national delegations and were also officially present as observers (Tønneson 1970, IWC various years). The common tendency of NGOs to pejoratively refer to the IWC in the period as a “whalers’ club” reflects this dominance. The dramatic decline of the stocks it was founded to manage led to the loss of legitimacy of the undifferentiated category of “whalers” (since no subcategories of commercial whaling exist within the IWC world) as custodians and managers of the stocks of great whales. These rumblings of discontent found expression early on. Tønneson (1970: 464) reports that J.A. Gulland, one of the IWC’s “wise men” (a member of the Committee of Four) put forward a plan in October 1965 that sought to transfer responsibility for whaling to the United Nations.¹⁰

The decline of the whaling industry seemed to open a window up for the redefinition of a norm. As the IWC struggled along, “external” norm entrepreneurs began to get interested in the issue. The struggle was now on for what the new norm would be. The timing of the issue, in the era of expanding democracy and in the decade of the birth of the new social movement, made it difficult to confine the argument to the IWC. Members of the Committee of Three/Four and other scientists may well have played a key role in stimulating interest in the issue to NGOs. J.L. McHugh, US Commissioner and once chairman of the IWC writes that he and US Ambassador Herrington agreed in 1965 that the best strategy to reform the IWC was to “inform the public” – a strategy he seemed to regret by 1974 as he described the ignorance of the public and lamented that they had unleashed forces that were now out of control – like the “sorcerer’s apprentice” (McHugh 1974: 313).¹¹ Gulland’s plan was forwarded through the Fauna Preservation Society (FPS), one of the earliest NGOs to become involved in this issue (Tønneson 1970: 464), and Sidney Holt, member of the original Committee of Three, has long been active in association with various NGOs.

catches in the Antarctic and the vast majority of whales reported taken were taken in coastal waters (Whaling Statistics for 1982-3). The USSR stopped commercial whaling in 1987 (Desombre 2000: 212)

¹⁰ According to this plan, an agency of the UN would issue licenses for whaling for a fee. The proceeds would be equally divided among four categories: the funding of whaling research, general UN support, division among UN members generally and, finally, one-fourth would be divided among whaling states (Tønneson 1970: 464).

¹¹ Scientist Justin Cooke has also been associated with this effort.

The history of NGO involvement suggests an evolution in the anti-commercial whaling forces. The earliest NGO interest seems to have been on the part of animal-oriented organizations. Interest here began with the Universities Federation for Animal Welfare (UFAW) on the issue of the humane killing of whales in the 1940s.¹² Conservationist organizations followed in the 1960s. The Fauna Preservation Society and the World Wildlife Fund (WWF) straddled the divide between animal and-oriented and environmentalist organizations. By the time of the 1972 Stockholm UNCHE, whaling was an issue had become an environmental issue rather than one of animal protection or resource management.

The arrival of the issue at the seminal Stockholm conference marked the clear transition in attitudes towards whaling. The evolution was one of adding layers, however, with earliest layers remained extant, giving the movement broad but diverse (and potentially divisive) reservoirs of support. IWC activities reflected these various currents. Efforts to make whaling more humane had been a part of the IWC agenda for some time and these efforts continue to date. The conservationist strand is reflected in the on-going efforts to devise a workable management plan. To this was added the overlay of a wholly new view of whales: Whales were increasingly seen as something more than a “living marine resource” to be harvested. All of these currents could converge at least temporarily around the attempt to secure what was usually called a moratorium (as opposed to ban) on all commercial whaling. The UNCHE resolution and subsequent NGO follow-up meetings pressed for a moratorium (Feraru 1974:41).

A wide variety of NGOs organized to “save the whales.” The arguments in favor of this goal varied. They appealed to all currents of the forces skeptical of the current practice of whaling and provided avenues of reasoning by which adherents of the diverse standpoints could unify around a single, consolidated position. Taking as their vantage point what they saw as the abysmal record of IWC management, many argued that the history of all whaling enterprises demonstrated clearly that commercial whaling simply cannot be done in a sustainable fashion: Knowledge about whales was so poor that management was mere

¹² Tønneson (1970: 535) reports that Harry Lillie, who had been a doctor on the vessel “Southern Harvester” in 1946-47 was deeply upset over the cruelty of the hunt (“dyreplageri hvalfansten med granatharpunen var”). It was he who got the UFAW engaged in the issue. The secretary of organization was a Major C.W. Hume. This led to a proposal to get a grant for the United Whalers to experiment with new killing methods – using electric harpoons. There was a debate in the House of Commons later in 1958 as the Lord Bishop of Portsmouth attempted to secure a grant for experimentation with this method. Hume was in contact with the Association for the Protection of Animals (Forening for Dyrene Beskyttelse) in Oslo on the issue (Tønneson 1970: 540). The World Federation for the Protection of Animals, with Dr. Lillie as spokesman, attempted to get a law against animal cruelty (“dyreplageri”) into the 1958 LOS Conference in Geneva (Tønneson 1970: 540-1).

guesswork, and governments and pirate whalers circumvented, undermined and sometimes just plain ignored international management measures. Second, they argued that whaling was inherently cruel. This had to do with killing times, method of killing and the social nature of whales. And since substitutes for whale-based produces were readily at hand, this was a needless infliction of suffering. Finally, a growing number argued that it was simply wrong to kill whales, that whales were such remarkable and special creatures that people who consider themselves “civilized” simply should not kill them. By this reckoning, whales had value beyond their economic value. Particularly in the early days of the save the whale movement, there was a good deal of attention to the special qualities of whales, such as their intelligence and their social qualities (often described in antropomorphic terms). This strand shows up in the once highly popular work of Dr. John Lilly (1969; see also McIntyre 1974) and remains an important sub-theme today. The summary message was that the International Convention for the Regulation of Whaling and the International Whaling Commission as it had been constituted represented the expropriation of an aspect of the common heritage of mankind by an needless industry that benefited a just few irresponsible and greedy companies.

This is obviously a mixed bag of reasons, including some related to practicality (lack of scientific information and adequate management tools, difficulties of controlling extra-IWC whaling) that could theoretically be overcome, and some having to do with ethics (whales have rights, whales are highly intelligent animals that should not be killed) that can not be. Given the mix, what norm, then, can we say these groups collectively promoted? In short, these arguments were used as an interchangeable list of reasons as to why it is essentially wrong to kill whales. And while the word “moratorium” is attached to both to the IWC action and to US Congressional resolutions in support of the IWC action, the collective impact of the bundle of arguments is to make commercial whaling unacceptable, period.

The Norm Emergence at the International Level

After hearings before Congress in 1971, the United States adopted as national policy a moratorium on all species of commercial whaling. It was under US leadership that the United Nations Convention on the Human Environment meeting in Stockholm in 1972 voted strongly in favor (53-0-3) of a resolution recommending this to the single body recognized to have the

authority to manage whales, the International Whaling Commission (Train 2005: 139;¹³ Callicott 1997). Progress from this point on was, however, slow. That same year, 1972, the International Whaling Commission declined to adopt such a moratorium. In some cases, IWC commissioners from states that had supported the moratorium at Stockholm voted against it in the IWC. In fact, only four countries at the IWC voted that year in favor of a moratorium (Argentina, Mexico, the United Kingdom and the United States) (Mulvaney 2003, 120).¹⁴ The US placed the item on the IWC agenda again in 1973 and it again failed, but there had been some progress: The majority voted in favor (8 in favor, 5 against with one abstention) but the resolution failed because it still fell far short of the 3/4ths required majority. The 1974 attempt also failed, but this time in favor of an Australian initiative that came to be known as the New Management Program (NMP).

The support of the majority of IWC members for the moratorium in 1973 may signify a sort of moral victory, since this vote was taken before the IWC membership expanded to include significant numbers of non-whaling states. Still, this still meant that only 8 countries in the world had voted in favor of the moratorium. The following decade witnessed a determined campaign by NGOs and by the United States government to both increase the membership of the IWC and to achieve the moratorium. Even before the achievement of the moratorium, in 1979, the IWC established the Indian Ocean Sanctuary (extending south to 55°S) in which all commercial whaling is prohibited. Originally established for a period of ten years, it has been extended twice (IWC 2005b).

The Norm Cascade

The moratorium on commercial whaling was finally adopted by the IWC in 1982, to take affect in 1986. The means by which this was done was by adopting a “schedule” in

¹³ Russell Train (2005:139) the environmental activist who became the first head of the US Environmental Protection Agency, writes that Lee Talbot and the US Council on Environmental Quality proposed to the White House that the US push for a moratorium on whaling. “Populations of several of the principal great whale species had reached alarmingly low levels, and they clearly needed time and protection in order to recover. More over, the protection of whales was now a poular subject with the public, so the time seemed ripe for a move. NOAA supported the proposal, Nixon bought it, and I was designated to attend the session as his personal representative in order to give a clear signal of his interest.” Train says he pushed for opening the IWC to the press but lost on the issue. His memoirs reveal no second thoughts about the moratorium.

¹⁴ Mulvaney (2003: 20) says 6 voted against (Iceland, Japan, Norway, Panama, South Africa and the USSR), and four abstained (Australia, Canada, Denmark, and France).

which the catch quotas for all whales actively managed by the IWC was set at zero. The schedule was adopted by a 3/4th vote. By 1982, the number of members in the International Whaling Commission had increased significantly, from 15 founding members countries (Callicott 1997:33, fn 14)¹⁵ to 32 (Stoett 1997: 67). The vote for the moratorium was 25 against 4. This meant that 3/4ths of a broad spectrum of states –including all the whaling states -- had signed on to the idea of stopping commercial whaling, at least temporarily. The deciding vote says Callicott (1997:44) was cast by Spain, itself a whaling state.¹⁶ Of those that voted against, Japan, Peru and the Soviet Union eventually withdrew their objections.¹⁷ Not all was well, however, Canada withdrew from the IWC in 1982 in protest at the way the moratorium was achieved -- but even that country had already banned commercial whaling (Stoett 1997). For its part, Norway voluntarily-- but temporarily-- halted its commercial whaling¹⁸.

By 1989, there was no openly commercial whaling taking place. This was a remarkable break with the past, a unique moment in marine management and, indeed, in world history. By 1991, D'Amato and Chopra could argue in the pages of the *American Journal of International Law* that “whales are entitled to consideration as moral entities” and that “assigning whales an entitlement to life is the consequence of an emerging humanist right in international law—an example of the emerging of the ‘is’ and the ‘ought’ of the law in the process of legitimization.” Echoing many others, Stoett (1997:4, 68) wrote of the “normative transition of the IWC”; the transition of the organization from a “pro- to an anti-commercial whaling” organization (see also Caron 1995:89). “Not killing whales” became the default option, and those who would whale now found themselves in the position of having to prove that their activity would not be harmful. This perspective was shared by many frustrated whalers from whom the IWC now became the enemy.

Many sought to stop all forms of whaling, but exceptions to this rule were carved out early on. While D'Amato and Chopra (1991:62) found “little justification for current claims of whaling for scientific research and only a *prima facie* justification of whaling for aboriginal substance needs” and that “the claim of entitlement of whales will triumph over these

¹⁵ Eleven attended the first meeting in 1949 (IWC 1950)

¹⁶ Japan, the Soviet Union, Peru, and Norway voted against. In August 2005, the IWC had 66 members, although not all attend meetings (IWC homepage (accessed 16.08.2005))

¹⁷ Japan withdrew its objection in two stages.

¹⁸ Because Norway never withdrew its objection to the moratorium, the country was never bound by it.

counterclaims,” these practices not only persisted, they expanded. In the early 1970s, American anti-whaling activists eagerly attacked all forms of whaling, including the take of the endangered bowhead whale by the American Inuit communities of Alaska (ACZM 1977). The issue came to a head in the US in 1977 when the International Whaling Commission, under pressure by the US and others for several years to improve its management of whales, decided that the Inuit take of the (endangered) Bowhead whales should stop. The United States was forced to openly choose sides in this dispute: after hesitating, it sided with the Inuit. The anti-whaling community split over this issue, with David Brower and the FOE siding with the Inuit (Brower 1977; FOE 1978a). Since FOE was a key anti-whaling organization in the US and internationally, this was an important move. The American Inuit community got its quota, the leading anti-whaling state of the day clearly endorsed the notion that the needs of aboriginal whalers trumped scientific recommendations and the IWC confirmed the importance of the practice of aboriginal whaling.

Continuing practice at the international level confirms the international acceptance of aboriginal whaling. The IWC has adopted guidelines for what constitutes aboriginal whaling and has agreed quotas for aboriginal whaling every year during the moratorium. So despite the hue and cry that met the attempt of the Makah Indians to resume whaling in the late 1990s,¹⁹ the leading tactic taken against aboriginal whaling has been to “expose” it as commercial whaling in disguise. The terms of the (mainstream) argument have shifted from the question of the validity of the idea of aboriginal whaling to the question as to what qualifies as aboriginal whaling. The anti-whaling movement has lost on this issue. Aboriginal whaling remained has acceptable, albeit narrowly so.²⁰

Scientific or research whaling raised similar issues. Here both practice and discourse have been ambiguous. The ambiguity is embedded in the moratorium on commercial whaling itself which stated that “this provision [the moratorium] will be kept under review, *based*

¹⁹ The Makah decision was greeted by hostility by many NGOs and individuals. I do not mean to imply otherwise, only that more mainstream organizations attacked it as a form of commercial whaling rather than as a cultural activity.

²⁰ In 1978 FOE wrote that the IWC decision of 1977 “reflected many observers’ doubt in the integrity of the Inuit culture. Given its reliance on many modern trappings, including guns, motorboats and snowmachines, whale supporters found it hard to accept the continued killing of an endangered species in the name of culture and subsistence.” Interesting they observed that “no Inuit had been involved in the decision, and no evidence clearly justified a complete ban.” (FOE/PJ 1978:vii) The current policy of the National Resources Defense Council is that “NRDC will oppose all killing of whales for commercial purposes and reserves the right to respond on a case-by-case basis to claims by indigenous peoples for killing of small numbers of whales based on subsistence and cultural need.” NRDC: “Opening Statement”. Annual Meeting of the IWC, Ulsan Republic of Korea, 2005. Private communication from NRDC.

upon the best scientific advice (emphasis added).” The scientific whaling programs conducted at one time or another by Norway, Japan and others accordingly acquire some legitimacy from this source. IWC treatment of this scientific whaling lends itself to differing interpretations. The IWC has never had the power to control such whaling but the IWC Scientific Committee and the IWC plenum have offered opinions and adopted resolutions on specific scientific whaling programs. The scientific committee has found some scientific merit in some programs of scientific whaling, although the relationship between this research and the knowledge needed for management remains unclear. Norway, using a combination of means including scientific whaling, survey voyages and computer models, has produced a stock estimate for the Minke whale that the Scientific Committee has found acceptable. The waters are similarly muddied by some in the anti-whaling movement who have used the lack of scientific knowledge about whales as a reason to support the moratorium. Arguing this way, however, opens the door to attempts to acquire the necessary knowledge and the theoretical possibility of resuming commercial whaling once such knowledge is available. Attacks on scientific whaling programs usually take on a character similar to those upon aboriginal whaling: NGOs seek to “expose” such whaling as scientific whaling in disguise (See Bailey 2005).

The debates around aboriginal and scientific whaling are highly illustrative, however. The difficulties these debates have uncovered about the definition of scientific and aboriginal whaling or how to characterize any given take of whales suggest that these are complicated issues, even in what would seem to be a relatively simple case. It is unlikely that the issue of commercial whaling is unique. The more significant the issue, the more complex it is likely to be. Digging into the existence of any norm is likely to reveal a good deal of messiness. A certain amount of ambiguity in definition or characterization, of course, might be quite useful achieving broad acceptance. Still, the messiness may leave several low-cost exits from the norm.

Broad acceptance that commercial whaling was unacceptable would have been a big enough change all by itself. It would have meant the successful transformation of a resource management issue into an environmental issue, the transformation of an animal that had been seen as a resource into an animal with an enhanced symbolic and moral status. This in turn would place interests other than those directly economic on par with economic interests. It would in addition raise questions about whether wild-life management could be done within a market system, since protecting whales required their removal from that system. Success in the realm of the whales accordingly would have implications for the CITES approach to

conservation. The failure of the IWC as a body to approve commercial whaling after so many years seemed to indicate an embrace of these potentially revolutionary ideas.

Comment [o1]: Is this better placed at the end or later in a discussion about the norm quality? See also previous comment about the low cost exit.

The Movement Stalled

Reaching the “norm cascade” stage does not necessarily mean that the norm will become internalized, however. For reasons outlined above, it appears that this is the case with the “no-commercial whaling” norm. What has gone wrong? Finnemore and Sikkink (1998) suggest a series of factors that could come into play here, including the intrinsic character of the norm, the prominence of the states that champion it and the purpose that signing on to the norm could have for other states (legitimization). The character of the norm includes the content of the norm itself as well as how it relates to other norms. There are many possible avenues to explore here. I have chosen only a few that seem particularly relevant. Chayes and Chayes (1993) argue for the importance of clear and specific norms. Others suggest that the norm must harmonize with other accepted norms: Keck and Sikkink (1998) suggest that norms that involve “bodily integrity and prevention of bodily harm for vulnerable or ‘innocent’ groups and those that involve “legal equality of opportunity” are “particularly effective” At a minimum, the norm should not conflict with the norm clusters that serve as the foundation for the international system: capitalism and liberalism. While these suggest a focus on the character of the norm, the way in which actors frame discussion of it is in practice hard to separate these from the process by which the norm emerges and is pushed internationally. Norm entrepreneurs often engage in norm-breaking behavior – behavior deliberately calculated to shock and challenge. The case of whaling suggests that entrepreneurial tactics are also important and may backfire.

The Character of the Norm

The quality or content of the norm must have a bearing on its success. Just what qualities count, however, is disputed. Clarity and specificity would seem to be an advantage. The norm “no-commercial whaling” seemed simple enough, but as suggested above, it ran into difficulties early on with respect to the issue of both scientific and aboriginal whaling. Allowing the taking of whales for some purposes but not others weakens the “no-whales”

prescription. In addition, it was supported by several different rationales that were in turn linked to different key actors who promoted the norm. Not all of these were accepted by key players. It became clear that while the word “moratorium” was seen by activists as a polite way of saying commercial whaling was no longer acceptable, others took the word to heart and worked to remove the scientific uncertainties that prevented effective management. Others exploited the ambiguities of scientific and aboriginal whaling, expanding these to drive the number of whales taken up. The meaning of the IWC action was essentially contested and accordingly the no-whaling norm failed to congeal.

But there were other difficulties. While the protectionist vision of the eternal moratorium would seem to harmonize with some norms, it conflicted with many others. It seemed at least partially in spirit with the emergence of the precautionary principle. It shifted the burden of proof to the whalers, forcing them to demonstrate that their activity would not harm the environment, a move later incorporated into the UN General Assembly resolution that banned large-scale pelagic driftnets from the high seas.

But a flat ban on commercial whaling does not harmonize with many other environment-related norms that have been broadly accepted by the international community. Chief among these is that of sustainable development, a concept with which Norway has been strongly associated. Sustainable development was popularized by the Brundtland Commission in 1987, and was swiftly incorporated into international agreements and national policy-making the world over. It is widely acknowledged to be a “bridge-building” concept, that is, one constructed with the deliberate intention of finding common ground between those concerned with development issues and those concerned more directly with the environment. As such it is clearly anthropocentric, with human welfare standing at its core. It is also deliberately open to interpretation, although it seems to anticipate that a degree of change in both social structures and the environment will have to be tolerated (Meadowcroft 2000: 371-3). The Brundtland Commission and the following UNCED process “firmly rejected the ‘zero-sum game’ of the 1970s environmental protection paradigm and presented environmental and developmental concerns as two sides of an interdependent process” (Lafferty and Hovden 2003:4; see also Hajer 1995). The whaling “moratorium” is in this way somewhat of an anachorism. Mainstream environmental thinking has moved. The whaling – and indeed, the broader marine mammal -- issue, was one of the earliest international causes and symbolic successes and may be a victim of its own early success

There is little in the notion of sustainable development, then, that supports the general idea that some resources are simply off limits. In addition, there is little formal support for

the idea that environmental problems can't be meaningfully managed, or that science and technology cannot be harnessed to solve environmental problems.²¹

An absolute halt in commercial whaling conflicts with many other broadly accepted ideas and norms. It defies the broad general trend of support for market-based solutions to all sorts of problems, including development and sustainability (de Soysa, Neumayer and Bailey 2004). In addition, while the achievement of the moratorium is in many ways a success story for civil society, this in fact cuts both ways in this case. The broad recognition of the importance of civil society participation for successful environmental practice strongly supports the idea that user-groups must be involved in the management of resources important to them. The moratorium was adopted at the international level at a time when non-aboriginal coastal whalers were underrepresented. Indeed, the absence of Inuit input into US and IWC decision-making in the 1970s created enormous bitterness. Today, the small-scale whalers of coastal Norway and other northern rim areas vehemently reject the legitimacy of the current IWC which they see as controlled by irrational environmental NGOs.

Keck and Sikkink (1998) suggest that norms that have to do with "equality and protecting vulnerable groups from bodily harm will have more transnational resonance than other norms." This has proved to be huge problem for those who would stop commercial whaling. Attempts to curtail traditional practices struck at the heart of the aboriginal cultures of the Far North. Marine mammal issues (particularly seals) pushed by "Westerners" or by white city folk became an issue of cultural imperialism for aboriginal peoples of the far north. Lynge wrote in 1992 that

[t]he Arctic peoples are facing the most critical situation in centuries. The threat comes not from the oil or gas companies, which is something that was faced several years ago, but from the environmentalists or animal rights groups, whose organizations are lobbying governments, international agencies, and various national organizations to take away the Inuit right to harvest their renewable resources (1992: 94).

Sealing and whaling issues have been important in mobilizing the native peoples of the far north and in forging alliances with "like-minded" groups of the area. The IWC attempt to halt the take of bowhead whales energized American Inuit communities. A meeting in Barrow Alaska in 1977 led to the formal founding of the ICC in 1980 (ICC webpage)²² In 1980, the World Council of Indigenous Peoples attended the IWC and in 1992 these were

²¹ And these are at the core of the complaints against the concept of Sustainable Development. While this is a frequent complaint, Sustainable Development with all its ambiguity is the dominant norm

²² The ICC may have had informal existence previous to this: IWC records suggest that a representative from the ICC attended as early as 1978.(IWC personal communication).

joined by the High North Alliance, the Indigenous World Association, Friends of Whalers, and the International Work Group for Indigenous Affairs. In addition, Indigenous people were represented by courtesy of other, established groups such as the American Friends Service Committee. By 1999, groups supporting whaling had increased their representation at the IWC, including such groups as the Group to Preserve Whale Dietary Culture, the International Indian Treaty Council, the Union of Marine Mammal Hunters, Minority Rights Group, and the Whale Cuisine Preservation Association. They were joined by the Norwegian Whaler's Union and the Nordic Fishermen's Council. The World Council of Whalers, established in 1997, is merely the latest example of this.

The argument that whaling has important cultural aspects is by no means limited to "aboriginal" peoples. Japanese, Norwegian and other whaling activities of all sorts are presented as first and foremost cultural. Norwegians frequently argue that their whaling today is small-boat whaling rather than resembling the factory ship pelagic whaling of yesteryear and frequently portray their whaling as important for cultural reasons. In this effort, Norwegian whalers have made common cause with other citizens of the far north, organized as the High North Alliance (founded in 1991)²³. By doing so, they produce an image that links them with so-called "aboriginals," and distinguishes themselves from the large multinationals such as the British corporation, Unilever, that had produced dogfood from whales caught in Antarctic waters.²⁴ The commercial aspects of the enterprise are muted (but not denied), with an emphasis placed on local consumption or, in the case of Norway, how cultures that prize blubber are prevented by international restrictions on importing the blubber Norwegians do not use.

23 As of 2006 the following were members of the alliance: Grindemannafelaget (the Pilot Whaler's Association), Faroe Islands; KNAPK (The organisation of Fishermen and Hunters in Greenland), Greenland; LÍÚ, (the Fishing Boat Owner's Association), Iceland; Vélstjórafélag Íslands, (the Engineer Officers' Association), Iceland; Norges Småkvalfangerlag (the Norwegian Whalers' Union), Norway; Norges Fiskarlag, (the Norwegian Fishermen's Union), Norway; Lofotrådet (the Lofoten Regional Council), Norway; Tromsø kommune (the Municipal Council of Tromsø), Norway; Bodø kommune (the Municipal Council of Bodø), Norway; Fiskebåtredernes Forbund (the Shipowners' Association), Norway; The Inuvialuit Game Council, Canada; Sjómannasamband Íslands (the Icelandic Seamen's Federation), Iceland; Félag Hrefnuveiðimanna (the Icelandic Minke Whaler's Association), Iceland; Sjávarnytjar, Iceland (High North Alliance homepage at <http://www.highnorth.no/about/hnatext.htm>).

²⁴ The World Council of Whalers states that "Whaling peoples today are a far cry from the industrial whalers of the past century, who slaughtered entire whale populations to feed a global demand for whale oil and bone. Today, from skin boats, small coastal fishing vessels, and dugout canoes, residents of small, often isolated coastal communities around the world subsist wholly or in part on the sustainable, small-scale harvest of cetaceans. Whaling feeds their families, their economies, and their cultures. For many, centuries of reliance on the products of the hunt have created a vital nutritional, cultural, spiritual and ecological link between whaling peoples and whales" (WCW 2005).

The transnational advocacy network of the anti-commercial whaling movement seems to have contributed to the creation of a rival transnational advocacy network. In addition to the strengthening of contacts among whaling groups and the enhancement of ties among aboriginal peoples, there are at least weak signs of the establishment of ties between Norwegian whalers and US “wise use” organizations (Keck and Sikkink 1998:12.) From this perspective we see a “counter-boomerang” effect in which civil society groups have joined together under the banner of defending cultural rights against a rapacious “western” culture and irresponsible “western” activists. These have had potency because they march under a banner of human rights, the kind of cause that Keck and Sikkink (1998:12) and others hypothesize to be particularly potent. The Japanese, of course, have long argued that the anti-whaling movement is racially motivated (Tanno and Hamazaki 2000).

Legitimization

Fennimore and Sikkink suggest that states sign onto norms in a search for legitimacy. In this case, the “legitimization factor” cut has both ways, depending on the period in question. In the lead up to the 1982 vote, non-whaling states were encouraged by environmental NGOs to join the IWC in order to vote for the moratorium. For a number of smaller, newer states, joining the IWC in the 1970s was one way to become involved in a hot topic in a center-stage position and to join into a movement that key states were endorsing. Membership in this club could be had for a low price: these countries frequently had no domestic whaling industry that would suffer.

On the other side stood, most resolutely, Norway and Japan. Norway has had a generally good reputation with respect to environmental issues and did not need external validation from others. US “shaming” tactics have had little success. Norway has been certified for whaling related reasons more than any other country except Japan but has never altered its policy. The position of the Norwegian government is widely supported at home: the largest environmental groups in Norway today support a program of well-regulated commercial whaling. In some ways, Japan seems to have been more vulnerable to US pressure and “shaming” than Norway. Japan did withdraw its objections to the moratorium under US pressure, and also accommodated the US with respect to the driftnets and shrimp-turtle issues in the 1980s. Even so, Japanese compliance with respect to whaling has been both superficial and under protest. The Japanese program of research whaling has not simply

persisted, it has expanded. The Japanese have shown little inclination to alter their research programs or to answer criticisms of them, and routinely introduce proposals in the IWC to reopen whaling.

Today, the general allure of supporting the anti-whaling moratorium seems to have worn off. Non-western states in particular are as likely to support the effort to lift the moratorium as not. This is in part a function of the success of whalers in portraying the issue as one of racism (Inuit, the Japanese) and of cultural imperialism (these plus the Norwegians, Faeorese and Icelanders) and of the efforts of Norwegians to link the issue of whaling to that of elephants in the CITES meetings.

While generally yielding to US pressure and perhaps to “shaming” techniques on the issue of driftnets, the Japanese have not adopted the new whaling norm. The anti-whaling norm has made no demonstrable headway “on the street” or among elites in Japan or Norway. Both the Japanese and the Norwegians have campaigned against the norm, with the Japanese actively working to recruit new, friendly states to the IWC. Norway had also reserved its position on the listing of minke whales on ICES appendix I, has long worked in that forum against the inclusion of the whales it takes (the Minke whale) and resumed international trade in minke whale products in 2001.

Prominence

The character of the states that endorse a new norm may help or hinder its general adoption. While many were voicing discontent with the IWC in the 1960s, it seems that the US played the key role in achieving the moratorium.²⁵ The United Kingdom also played an important early role, followed by Australia and a smattering of European states in supporting roles.

The US would have to be seen as a key state for reasons that start with whaling but go far beyond it. The United States, of course, had had a long history of pelagic whaling. Under the leadership of Remington Kellogg, the US took a leading role in the establishment of the International Whaling Commission after the war. The International Convention for the

²⁵ FOR/PJ (1973) includes the “Declaration by Observers at the 24th Meeting of the I.W.C., London 1972”. In point 4 it states, “We wish to congratulate the Government of the United States on its vigorous leadership of the global moratorium proposal, and also commend the attitudes of the delegations of Argentina, Mexico and the United Kingdom.”

Regulation of Whaling was signed in Washington DC in 1946. The convention and the instruments of ratifications are deposited with the Government of the United States. (The IWC secretariat is itself located in Great Britain).²⁶

The US decision to halt commercial whaling was not entirely cost-free, which lent additional value to its action. In 1970, Interior Secretary Hinkel placed 8 species of whales on the US endangered species list, effectively ending the small, lingering US whaling industry operating out of California in 1971.²⁷ US citizens also had some interests in other whaling operations.²⁸ The value of the 1971 landings was estimated at only \$34,700.²⁹ By 1970, many states had ceased large-scale whaling. But the decisions by the Norwegians, Dutch, British and South Africans were business decisions and they frequently sold their vessels to the Japanese. Large-scale whaling in the Antarctic was simply less attractive as catches declined and other products competed with those derived from whales. Norwegians continued to take Minke whales in the North Atlantic. The US was accordingly the first government to end commercial whaling by its nationals for environmental reasons.³⁰

Of course the weight of the US extended beyond whales and the IWC. The US position on whaling was a part of a larger pattern. By the 1970s, the US had credentials as a

²⁶ Ironically, Gen. Douglas MacArthur in his role as head of the US occupation government in Japan, encouraged the Japanese to resume whaling after the war as a means of provide protein to the Japanese and speeding the economic recovery of the country. The SCAP, Supreme Command of the Allied Powers, was accordingly an observer at the first IWC meetings.

²⁷ “Statement of E.U. Curtis Bohlen, Asst. to the Secretary of the Interior”. in U.S. House of Representatives, “Hearings before the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs House of Representatives”, 92nd Congress, First Session, July 26, 1971. US anti-whaling groups “were instrumental” in getting an import ban on eight species of whales (FOE 1978:145).

²⁸ US whaling after World War II seems to have been a fairly low key activity. Tønneson (1970) fails to mention of US whaling after the war, with one interesting exception: The reckless, unregulated whaling in the early 1950s by Onassis’ vessel “the “Olympic Challenger” was described in Norwegian sources as “American”. Although financed by the Greek-born, Argentine citizen, Aristotle Onassis, the Olympic Whaling Co. Inc was a daughter company of the US Pacific Tankers, Inc. of New York. The Olympic Whaling company of Montevideo was apparently run by American citizens, with vessels flying the Panamanian or Honduran flag.

²⁹ Statistics available from the National Marine Fisheries Service, NOAA, Department of Commerce indicate that 157.4 metric tons (or 346,900 pounds) of “whales” (otherwise unspecified) were landed in 1971, valued at US\$34,700. Between 1951 and 1971, the US landed a total of 30,088.3 metric tons (mt), or an average of 1769.9 tons per year. These were unequally distributed, however, and landings ranged from 247.2 mt in 1951 to a high of 4.09 mt in 1961. Figures are available following links from the NMFS/NOAA/ DOC web site at <http://www.st.nmfs.gov>.

³⁰ The Japanese efforts in the Antarctic persisted Tønneson (1970) suggests, because the Japanese made better use of their catch—principally because they consumed the meat—which in turn meant that their whaling was more profitable. The Soviets may have persisted in whaling, he suggests, because of a general desire to offset the US presence (in the form of research stations) in the Antarctic. Perhaps they were also motivated by the lure of cheap protein.

leader in improving the environment, lending a certain credibility to the US position on whales. This was true of both the US government and of the US environmental movement – and both sought to use their prestige in pressing environmental issues beyond the US. The US has been particularly focused on marine mammals, notably whales, dolphins and seals. The passage of the Endangered Species Act (ESA) in 1966 was an important step in this process. Pressure from environmental groups led in 1969 to a new version which allowed the US to list animals in “world wide danger”, that is, allowing the US to take action on animals found beyond US boundaries. The 1969 version was passed under the pressure of activist groups concerned about whales (USFWS 2006; Thoreau Institute 2005). The interest in whales was matched by interest in other marine mammals. In 1972, Congress passed the Marine Mammal Protection Act (MMPA), which covered seals, whales, dolphins and other marine mammals. Internationally, the United States was instrumental in achieving the passage of a resolution at the first UN conference on the environment (UNCHE) calling for a ten year moratorium on commercial whaling. The US signed the Convention for the Conservation of Antarctic Seals in 1972 which subsequently entered into force in 1978³¹ and in 1973 hosted an international meeting that resulted in the founding of CITES. The US used the Pelly Amendment and the Packwood-Magnuson, both of which allow for limited economic sanctions against offending states, to press other states for compliance with selected environmental issues, often at the behest of US NGOs.

These actions had real consequences for the United States. The MMPA hit the US tuna fleet, leading to its sharp reduction (Schoell 1999). Subsequent marine mammal legislation reinforced this trend. A broad spectrum of industries opposed this legislation.

The ESA and MMPA were just a few of the important pieces of environmental legislation adopted in the US around this time, and NGOs were intimately involved in securing these. Efforts by David Brower and a revitalized Sierra Club led to the passage of the Wilderness Act in 1964. The Water Quality Act was passed in 1965, a Clean Air act in 1967, The Wild and Scenic Rivers Act in 1968 (Brulle 2000:184). The National Environmental Policy Act, passed in 1969, provided for the establishment of the US Environmental Protection Agency, one of first in world (J & W 1997: 316). Environmentalism clearly had

³¹ The 2004 NOAA “International Agreements concerning Living Marine Resources of Concern to NOAA” says that there has not been sealing in the Antarctic since the treaty entered into force although the treaty calls for the parties to meet and review the operation of the Convention at least every five years. The purpose of the convention is to promote protection, scientific study and rational use of Antarctic seals.

momentum. A new Clean Air Act passed in 1970, the Water Pollution Control Act in 1972, the Pesticide Control Act in 1972, and a new version of the Endangered Species Act 1973.

This flurry of activity made the United States an early leader on environmental issues. Jänicke and Weidner rank the United States as one of the earliest of surveyed states (third among 36) to institutionalize environmental policy.

That was then, this is now.

Given that it is now twenty-plus years since Australia's *Frost Report* led to the ending of the Australian whaling industry, thirty-plus years since the US ceased whaling and nearly forty years since the British ended their industry, can these states still be considered as pivotal on this issue?

As the issue has dragged on, the legitimacy of those states associated with the anti-whaling movement has declined, with respect to this issue, with respect to environmental issues, and simply, just generally. Their commitment to this norm long after their industries closed down is now easy to interpret as environmentalism on the cheap. This is especially true for the US today since the United States is hardly considered to be a leader on environmental issues (symbolized most dramatically by the Bush administration's rebuffing of the Kyoto Treaty). Norwegians in addition have reacted poorly to British pronouncements on the immorality of whaling at a time when Norway could get no satisfaction from the British on the issue of marine emissions from the British nuclear power plant at Sellafield. American environmental NGOs came to be resented for, among other things, their readiness to resort to the threat of economic sanctions against Norway. The lack of a US whaling industry (beyond the approved subsistence whaling of Alaskan Inuit and the Makah) has become a liability rather than an asset since pursuing this policy is now pain-free for these states. International acceptance for the tools the US has employed to achieve compliance, the Pelly Amendment and the Packwood Magnuson Agreement, has deteriorated. In two instances, the use of the Pelly Amendment to force compliance with tuna-protecting measures has been found contrary to the GATT/WTO trade regime.

Of course, those of us living beyond the boundaries of the United States can testify that US credibility and legitimacy is now generally quite low, followed by that of Great Britain. It is notable that the high profile actions with respect to the War on Terror and Iraq on the part of key states of the "Anglo-sphere" (the United States, Great Britain and Australia) – the same states that strongly back the moratorium -- have generally eroded their prestige and moral authority around the world. US backing for the moratorium may now be more of a hindrance than a help

As environmental and general leadership has slipped away from the United States, the prestige of those associated with whaling norm has increased or at least, not decreased, particularly on this issue. Norway routinely scores high in a number of surveys measuring environmental sustainability³² and general welfare. The whalers have organized an international network to rival that of the anti-whalers. Japan has perhaps less leadership in environmental issues but is widely acknowledged to have used other means to persuade states to follow its lead.

The Process

Some of the reasons the anti-whaling norm has failed to progress lies with the way in which it was achieved. In short, on the one hand, support for the norm failed to “thicken”, and on the other, actors pushing the norm provoked a reaction.

The Norm Entrepreneurs

There are quite a few individuals and groups who must be in the running for the title of anti-commercial whaling norm entrepreneurs. The nature of these entrepreneurs (both individuals and organizations) helped get the whaling movement started but have also been a factor in its waning popularity. The anti-commercial whaling effort gained prominent converts early on, but the appeal of these ultimately proved to be limited. Tracking individuals engaged in the issue allows us to track the progress of the norm. Haas (1989:380) asks how a regime may be “transformative, leading to the empowerment of new groups of actors who can change state interests and practices” and suggests that “if a group with a common perspective is able to acquire and sustain control over a substantive policy domain, the associated regime will become stronger and countries will comply with it”. The anti-whaling movement ultimately failed to gain control over the policy domain. An epistemic community favoring a halt to whaling failed to emerge.

The anti-whaling movement got off to a good start. Key environmental activists in both the US and Britain were early, enthusiastic supporters. One of the earliest to become involved was certainly Sir Peter Scott, son of the iconic (if unlucky) British explorer and

³² The Environmental Sustainability Index, for example, ranks Norway as second in the world (Esty et al. 2005). The United States is ranked 45th.

founder of the WWF. The WWF, of course, was very much an “establishment” organization with members of the British and Dutch royal families sitting on its board. In the United States, the arch Druid himself, David Brower, his relatively conservative Sierra Club and later his new, more activist Friends of the Earth signed on to the cause. The exciting new Greenpeace, with anti-establishment figures like David McTaggart (whose activist credentials were established in the anti-nuclear movement) became prominent spokesmen for the anti-commercial whaling norm.

In the United States, support for the norm was and is broad. There has been remarkable continuity in the cast of actors and organizations working to end whaling over the thirty-five plus years this movement has been in existence. The 1971 Congressional hearings suggest that in the United States, animal welfare organizations were in the forefront of the movement but that the cause was soon embraced by the broader environmental movement. Representatives from the Committee for Humane Legislation, the Society for Animal Protective Legislation, the Animal Rescue League, the American Horse Protection Association, Inc, and the American Veterinary Medical Association, Inc. either presented testimony or submitted statements for the records. The environmental organizations represented in 1971 were Friends of the Earth (FOE) and the Environmental Defense Fund (EDF). The various Congressional hearings record the names of key figures who figured prominently in the anti-whaling struggle. The following is a partial list: Scott McVay (Environmental Defense Fund), George Small, Tom Garrett (Friends of the Earth), Christine Stevens (FOE/Society for Animal Protective Legislation) are among the most notable. Tom Garrett, listed in 1971 as the representative of the FOE, later became a member of the US delegation to the IWC and act served as acting US IWC Commissioner in 1981. Patricia Forkan (Humane Society of the United States) Robbins Barstow (Connecticut Cetacean Society), Phoebe Wray (Center for Action on Endangered Species - 1982), Campbell Plowden and others from Greenpeace and last but not least, Craig Van Note (Monitor). Support for the moratorium spanned the spectrum of US environmental groups and animal-oriented groups. Brulle’s (2000) sorts the various US environmental groups into 6 broad categories. The majority belong to two: The “reform environmentalist” and the “preservationist”.³³ Most of

³³ The mean founding date of the 31 “reform environmentalist groups” surveyed is 1969, the median 1971. Among these were the Environmental Defense Fund (now Environmental Defense) (1967), American Littoral Society (1961), Center for Marine Conservation, Inc 1972, Earth Island Institute (1982), Environmental Action (1970), Friends of the Earth (1967), Greenpeace (USA, 1970), and the Natural Resources Defense Council, Inc (1970). Among the reinvigorated older, preservationist organizations were the Audubon Naturalist Society of the Central Atlantic States (1897), the National Audubon Society Inc. (1905), Defenders of Wildlife (1947), the Nature Conservancy Inc. (1951), the Sierra Club (1892), the Wilderness Society (1935) and the World Wildlife

these groups in these categories have supported the moratorium on commercial whaling. In addition, animal-oriented groups favored the moratorium early on. The Committee for Human Legislation, the Society for Animal Protective Legislation testified in 1971 (US house 1971). The Fund for Animals, Humane Society of the US, the International Fund for Animal Welfare and the World Federation for the Protection of Animals supported either the moratorium or related marine mammal legislation.

By 1978, it would seem to be safe to say that the anti-whaling “norm” had been internalized in the United States. Even Walter Cronkite, “the Most Trusted Man in America”, publicly sided with those who “believe it is morally wrong to kill cetaceans” except, perhaps, for reasons of subsistence (Cronkite 1978). Broad support for the moratorium has persisted within the environmental community: A November 2000 open letter directed to President Clinton, urging him to sanction Japan for its expansion of “so-called ‘scientific’” whaling drew a wide array of co-signers including The Endangered Species Coalition. As of April 2001, 377 groups were members of this coalition. The role call of anti-whaling groups continues to include animal-oriented groups such as the Animal Protection Institute, a broad array of general environmental groups such as Defenders of Wildlife, Greenpeace, Friends of the Earth, the Wilderness Society, and the Conservation Law Foundation, many local and state chapters of the Audubon Society, groups not usually considered to be specifically environmentalist such as US Public Interest Research Group, and some groups dedicated principally to cetaceans, such as the American Cetacean Institute and the Whale Conservation Institute. It also includes professional organizations of a more scientific bent, such as the American Institute for Biological Science, the American Ornithologists’ Union, and the American Society of Mammologists.³⁴

The IWC produced its own activists, those who gained legitimacy on the issue precisely because their association with the IWC in addition to their scientific credentials. Some of these simply expressed significant doubt that the IWC could evolve into an institution capable of performing its mission. Others directly embraced the new norm. Of these Sidney J. Holt is the most prominent and pops up in a variety of roles. In addition,

Fund Inc. (1948). The mean founding date for the 18 preservation groups that Brulle surveyed was 1933, the median 1935. (Brulle 2000:241, 286-7). His other categories are: Wise Use, Conservation, Wildlife Management, Deep Ecology, Environmental Justice, Eco feminism and Ecotheology See Brulle 2000 286-8 for a list of the organizations he places in these categories.

³⁴ This list is drawn from two sources: 1) the letter to President Clinton, dated 2 November 2000, and signed by 31 US, foreign and international organizations; and 2) Statement of Affirmation addressed to the Contracting Governments of the International Convention for the Regulating of Whaling attending the 47th Annual Meeting of the IWC and signed by 67 groups from many different countries.

Justin Cooke, associated with the IWC Science Committee, has actively questioned the science said to support the Norwegian resumption of whaling.

But the movement ultimately failed to secure the level of agreement within the scientific community and the ranks of IWC experts required for the epistemic community, both in the United States and internationally. It has become lodged in the periphery of the IWC Scientific Committee. Holt and Cooke have become increasingly isolated within the IWC. The Scientific Committee has voted to accept stock estimates for the North east Atlantic minke whale, which the Norwegians take. Even within the United States, scientists were skeptical about the moratorium even at an early stage when knowledge about whale stocks was uncertain and the IWC had yet to prove itself as a management agency. Scientists and commissioners associated with the IWC expressed misgivings about the moratorium policy before it was adopted as official US policy (McHugh 1974: 335; Chapman 1971: 17-18).³⁵ Scientist and long-time head of the IWC, now retired, Ray Gambol, always remained skeptical of the whaling moratorium. In 1993, Philip Hammond, Chairman of the IWC Scientific Committee resigned in protest over the inability of the IWC to adopt the RMP that would allow commercial whaling to proceed (Stoett 1997:160; Hammond 1992). Norwegian scientists have consistently flatly rejected the need for a moratorium (see Stenseth et al. 1993). None of these actors ever embraced the idea that taking whales is wrong in principal. Finally, the United States itself has had to recognize that “science” does not support the moratorium and today justifies its position as driven by public opinion. Today (in the Spring of 2006) the US position on whales cannot not be found on either the NOAA nor DOS website.

In Norway, the norm never made much progress at the civil society level, either. Foreign activists, including Scott, and Holt, and lesser known Greenpeace activists tried to bring the anti-whaling gospel to Norway in 1985, but this position has never struck root. Instead, the few proponents of the moratorium in Norway complain of harassment and the anti-whaling effort stimulated the rise of the High North Alliance (see Bailey 2005). The leading environmental organizations in that country only lukewarmly and temporarily endorsed the moratorium. Their support did not rest upon a change in values with respect to commercial whaling, but upon the principle that assessments should be made on the basis of scientific advice as to what stocks could tolerate and on a desire to respect the decisions of international bodies as such. Leading scientists and environmentalists have joined together to

³⁵ In 1971, J.L. McHugh was both Chairman of the International Whaling Commission and U.S. Commissioner to the IWC. Dr. Doughla G. Chapman, was Dean of the College of Fisheries, Univeristy of Washington, Seattle, and Chariman of the Scientific Committee of the International Whaling Commission.

support the Norwegian decision to allow commercial whaling along the Norwegian coast. Embracing the concept of “sustainable development” and by reference to the words of a Norwegian philosopher who warns that the best way to destroy a resource is to sever the direct connection between nature and man, leaders of the mainstream environmental organizations in Norway have spoken up to support the government position (Aasford 1993; Sørensen 1993). Those who have argued in favor of the moratorium or against Norway resuming commercial whaling on principle belong to relatively marginal groups (such as the Norwegian animal rights group, NOAH).

~~Finally, we return to the United States. As more than one observer has noticed, the issue of whaling has become a highly symbolic one for the US environmentalist community. While this has certain implications for the way in which the case against commercial whaling has been argued, it has an additional implication. It ties the issue to the environmental movement and to some extent shares its fate. In the United States, moreover, the popular anchoring for the anti-whaling norm is not as solid as generally supposed. The first poll taken by Kellert in 1979, just when it seemed that the public had embraced the new norm, suggested that a majority of Americans approved of the killing of whales “for a useful product so long as the species was not endangered” (reprinted in US House of Representatives 1981:119).~~

Fora

While the UNCHE in Stockholm voted apparently overwhelmingly for the moratorium, the IWC meeting later that year told another story. At that venue, attended by country specialists on whaling, only four countries voted in favor of the moratorium (the USA, UK, Mexico and Argentina); 6 voted against (Japan, USSR, Panama, Norway, Iceland and South Africa), 4 abstained (Australia, Canada, Denmark and France) (FOE/PJ 1973: np).

As the sole international body charged with the world-wide task of managing whales, the IWC was a pre-existing forum that became the natural focal point for these actors and organizations. This effect was enhanced by the fact that the IWC was charged with managing whales even within the national waters of member states, making the idea of a single unified management scheme feasible. It was clear that the way forward for the anti-whaling forces lay through the IWC. Both the United States and anti-whaling NGOs accordingly sought to get all states whose nationals conducted whaling into the organization and to get the moratorium passed.

But herein lay a problem. The convention clearly recognized the acceptability of commercial whaling. That is, the norms that existed at its founding were clearly inscribed in its fundamental documents. Achieving the moratorium by embedding it in the yearly schedule—even though a 3/4th majority was required -- left the original language intact. This was so even while anti-whaling activists argued that the protection of whale stocks was logically prior to protecting the industry. This meant that whaling proponents could always draw upon international law to support their position, as Norway has routinely done. The whaling states could argue with justification that the nature of the organization was altered without their consent – a strong normative argument itself.

Norway is the only IWC member that maintained its objection to the moratorium which would seem to leave it isolated. But portraying the situation in this way is misleading. While Japan withdrew its objections (in two phases), it did so under strong US pressure – and then transitioned quite promptly into research whaling. Iceland also took up commercial whaling, ceasing only under the threat of a consumer boycott that threatened its critical exports of fisheries products. While Canada stopped commercial whaling, it withdrew in protest from the IWC over the way in which the decision was made. Finally, Norway, Greenland, Iceland, the Faroes 1992 to found the North Atlantic Marine Mammal Commission (NAMMCO) which embraces the principle of the commercial take of marine mammals and the view of marine mammals as a legitimate resources to exploit. In short, it seems clear that many whaling states and their citizens have not changed their minds on this. Instead, the result has been to reduce the authority of the IWC in the eyes of the most relevant states.

Norm-Breaking Behavior

Norm-breaking behavior is supposed to be shocking. Its function is to challenge the rules and to force citizens to rethink their opinions and positions. But this is a risky business for exactly these same reasons. This is complicated by the fact that there are multiple publics for any given act. What shakes up one public may deeply offend another. In short, the tactics that have the desired effect in one place may well backfire in another. In the case of whaling, some tactics chosen led to a failure to take protesters seriously, others were deeply offensive and still others were frightening. They provoked a response in many quarters including a popular one which soon mimicked the original movement.

NGO Participation in the IWC

It was inevitable that anti-whaling activists would train their attention on the IWC. Perhaps the way for anti-whaling NGOs was paved by the attendance of the Association of Whaling Companies and the International Association of Whaling companies throughout the 1950s (IWC private communication). Tønneson (1970) suggests that animal-protection organizations were first drawn into the issue of whaling in the 1940s as Dr. Harry Lillie, a physician aboard a whaler, appealed to the UFAW to help end what he saw as the cruelty of whaling. Dr. J.A. Gulland apparently worked through the Fauna Preservation Society in the mid 1960s on the whaling issue (Tønneson 1970:464-5). NGOs began attending the IWC on their own as observers just as the fight within the organization to get control over the situation intensified. IWC records indicate that the earliest organization to send observers to the IWC were the International Society for the Protection of Animals (1963)³⁶, the Fauna Protection Society (FPS), (1965) and the WWF (1965) (IWC, Private communication).

NGOs engaged in mildly norm breaking activities by attending the IWC annual meetings starting in the 1970s. While there was precedent for NGO involvement in international governmental organizations such as ECOSOC and the UNCHE process (Feraru 1974), many intergovernmental organizations were not then routinely open to such involvement. This was particularly true of fisheries organizations. While observers attended IWC meetings in the 1950s, these were generally limited to countries, and representatives of other intergovernmental organizations. But the UNCHE process seems to have signaled a change in the general legitimacy of NGO participation in intergovernmental meetings. UN General Assembly Resolution 2398 (XXIII) (passed in 1968) called upon the Secretary General to consult with NGOs in the preparation for this meeting (Feraru 1974:34). A wide range of NGOs were involved in the preparatory meetings for the conference and were accepted as official observers to the conference. Many others attended parallel conferences. Among these were some of those that later became particularly active on the whaling issue: Friends of the Earth,³⁷ the WWF and the International Society for the Protection of Animals. NGO attendance at the IWC increased after 1972. The most dramatic increase in IWC attendance occurred after the US succeeded in opening all sessions to NGO observers in 1978

³⁶ Also lists the PCSP but IWC annual report makes it clear this is the Permanent Commission for the South Pacific.

³⁷ Feraru (1974:37) reports that FOE was among the three most active INGOs at Stockholm. The other two were The International Council of Scientific Unions (ICSU) and the International Union for Conservation of Nature and Natural Resources (IUCN).

(Andresen 2001: 213). While five attended in 1972, and 8 attended in 1973, 57 observers of all kinds attended in 1982. Attendance may have hit a peak in 1996 when 114 organizations of all kinds were registered as observers (IWC private communication.).

On the other hand, the identity of these organizations and the way in which they engaged the IWC may have been relatively distinctive. As the issue heated up, a bewildering variety of organizations attended, including those with the intriguing names of “Assembly of Rabbis” and “A & M Records”. The IWC meetings took on a circus atmosphere. There seems to have been frequently loose usage of group affiliation to gain access to the proceedings. Individuals appear at successive meetings with different organizational affiliation. Even so, there was a core of anti-whaling NGOs and individuals that attended the IWC for many years and developed expertise in the area.

The US practiced what it preached with respect to NGOs. After 1971, the size of the US delegations increased dramatically from 5 (in 1970) to 19 (in 1972). US delegations included a wide range of representatives of domestic interests in the deliberations, including anti-whaling NGOs. Anti-whaling activists Tom Garrett and Scott McVay attended the IWC as members of the US delegation beginning in the early 1970s. The increased size of the US delegation also reflected conflict in the United States, as the US became entangled in the heated controversy at home over the Inuit take of bowhead whales. Only the Japanese delegation rivaled that of the US in size, but the Japanese delegation had always been a large one (18 in 1964 and increasing to 25 in 1989) (IWC 1965, 1989)

As if attendance and lobbying activities weren't enough, there were the decidedly unrefined antics during the annual meetings themselves. These ranged from protests held outside of the location of the IWC, to protest actions during the meetings. FOE reports that as early as 1972, delegates to the annual IWC meeting had to work their way through pickets to reach the meeting (FOE- Project Jonah 1973). Feraru suggests that this sort of popular activity in connection with a large meeting was also seen at the Stockholm convention. WWF tells of the inflatable whale carried through the streets of Stockholm in 1972 (WWF 1996) and of enthusiastic protests held during the annual meetings. This set the stage for subsequent IWC meetings. At the Australian meeting of the IWC in 1977, for example, the protests included an inflatable whale, mock funerals, and protests in front of the Soviet and Japanese embassies (FOE 1977). In 1979, John Denver sang to the IWC delegates from the observers' area.

NGO tactics were occasionally more aggressive and offensive. The NGOs' ECO newsletter can be quite caustic about its pro-whaling opposition. Anti-whaling NGOs frequently describe the practice of whaling as barbaric, and whaling as slaughter. FOE reports

that in 1977, activists along with their inflatable whale managed to work their way into the hotel in which the meeting was held. The protesters were charged by police, with “drawn bayonets” and the inflatable whale – named Willy by the activists – was later found slashed up (FOE 1977). As the 1978 IWC meeting drew to an end without achievement of the moratorium, “pro-whale demonstrators’ entered the room, declared the IWC to be of ‘unsound mind and body’ and in leaving one poured sticky red liquid over the heads and clothes of several of the Japanese delegation” (FOE 1978b).

Using the Market

The commercial boycott has long been a tactic employed by activists in the United States. In 1973, anti-whaling NGOs in the United States banded together to declare a consumer boycott on goods from the whaling states of the Soviet Union and Japan. Once the moratorium was adopted in 1982, NGOs supported a boycott against Iceland in protest against that country’s program of scientific whaling. The tactic was also employed against Norway when that country resumed commercial whaling. These efforts had varying effects. Because Iceland was highly dependent on exports of seafoods, this tactic proved successful. In the other cases, the result varied from insignificant to highly counterproductive. The consumer boycott had little effect against the Soviet Union since that country exported only a few products to the United States and was not in any case very responsive to consumer pressure. In the case of the Japan, the campaign took on racist overtones, even by FOE accounts, and the Japanese were able to successfully denounce it in part for that reason (FOE 1978a). A later campaign against Norway was unsuccessful, exports were not significantly affected and the 1994 Winter Olympic Games were not disrupted. The biggest impact in Norway seems to have been alienation: Norwegians broadly resented being bullied in this matter.

US NGOs have also broadly supported the efforts of the United States to force compliance with the IWC through the use of the US’s unique certification/sanction weapons. In 1971, the United States had passed the Pelly Amendment to the Fisherman’s Protective Act of 1967. Created for a wholly unrelated issue³⁸, the US began to utilize it to push countries that permitted whaling into the IWC and those in the IWC into compliance with IWC management decisions. Both the Pelly Act and the subsequent Packwood-Magunuson Act first require the “certification” that a country is undermining a conservation regime. If the certified country does not improve its behavior, the US president then has the option (and

³⁸ The issue of Atlantic salmon fishing by Denmark under the ICNAF.

quite possibly the requirement) to apply force in the form of trade sanctions (Pelly) or the exclusion of that country's fishing vessels from the US EEZ (Packwood-Magnuson).

The US has shown little reluctance to "certify" but a good deal more reluctance to sanction. The US certified Japan and the Soviet Union as undermining such efforts in 1974. In exchange for pledges to abide by the IWC regulations and to forgo filing further objections, President Ford decided in 1975 against economic sanctions. In 1978, the Secretary of Commerce certified three states that were not members of the IWC, Chile, Peru and the Republic of Korea under the Pelly Amendment for diminishing the effectiveness of the IWC. The combined efforts of the US government and anti-whaling NGOs was successful in increasing IWC membership, particularly of those countries whose nationals engaged in whaling: South Korea, joined the IWC in 1978, Chile Spain and Peru joined in 1979. By 1981, 34 countries were members. In addition, the US threatened certification against Taiwan on IWC grounds. Taiwan subsequently halted its whaling (DeSombre 2000:212). The US subsequently pressured South Korea to end whaling in 1986, and Chile to adopt the moratorium in 1983 (hearing on H. Con Res 54, 1985; in the US District Court finding included in the text, p. 154-6). The US first certified a foreign country (the USSR) under the Packwood-Magnuson Amendment in 1985 for intentionally exceeding the 1984-5 minke whale quota. The only countries ever subjected to economic sanctions for reasons connected with whaling have been the Soviet Union and Japan, both of which were lost the right to fish in US waters under the provisions of the Packwood.Magnuson Act.

The US threat of economic sanctions for environmental causes was and is unique. It is notable, first, that no other state has followed this lead, and second, that so many US NGOs have embraced this weapon. Support for US economic sanctions was the natural extension of NGO consumer boycotts. NGOs have been, however, mostly disappointed in the US government's use of this tool. They have twice taken the United States government to court to force the imposition of economic sanctions against Japan (in 1986), and against Iceland (1989). However, NGO enthusiasm for this approach gives one pause. There is no evidence that these NGOs pressed the issue in this way at the behest of NGOs in the target countries. It is hard to find, that is, a boomerage effect. Instead, the US NGOs seem to have alienated their natural allies. This is particularly visible in the case of Norway (Bailey 2005).

Recruiting IWC Members

Another NGO tactic seems to have been more novel and also deeply resented. NGOs apparently worked to increase the membership of the IWC in order to outvote the whaling countries. While by the terms of the ICRW there are no restrictions on membership, this was norm-breaking relative to previous IWC practice in two ways. First, NGOs worked specifically to bring in states that had no prior history of significant whaling operations. While the whaling status of some members was by the 1970s precarious, this still represented a break with the IWC past. Second, the means NGOs employed to achieve their goals was considered highly dubious to many. DeSombre (2000) reports that NGOs in some cases paid the IWC membership fees for the small country or two, and apparently wrote position statements for some states. This was (and is) considered to be highly illegitimate behavior. It differed from the US government's effort to bring all whaling states into the IWC and under its authority. This tactic may ultimately backfire. In recent years these and other smaller states have been pressured – and enticed – by the Japanese to vote in favor of the lifting the moratorium.

Direct Action

But the most confrontational, dangerous and certainly norm-breaking tactics occurred far beyond the location of the IWC meetings on the high seas and eventually in port. These actions were directed against vessels from both IWC and non-IWC member countries. Greenpeace took the lead in this sort of activity. Using tactics that were designed to “bear witness”, disrupt whaling activities and to draw attention to the cause, Greenpeace-ers campaigned in the Pacific and Atlantic. Beginning in the Pacific in 1975, Greenpeace targeted the Soviet whaling fleet. Between 1978 and 1980, Greenpeace disrupted Icelandic and Spanish whaling. In response, Icelandic whalers launched harpoons at them. Icelandic gunboats began to accompany Icelandic whaling vessels and they seized the Greenpeace vessel *Rainbow Warrior* in 1979 (Day 1987: 53). In the more recent campaign against Norwegian whalers, Greenpeace sought to disrupt whaling by the *Senet* and was fined for doing so by a Norwegian court.

Some anti-whaling activists turned to far more aggressive tactics. Day's (1987) language is quite aggressive. In his book, tellingly entitled *The Whale War*, he describes Greenpeace's the *Rainbow Warrior* as the “first eco-warship” in the North Atlantic (although decorated with a rainbow and a white dove) and calls the campaign a “blitzkrieg.” This language in fact better suits actors other than Greenpeace. The vessel *Sea Shepherd* (financed

by the Fund for Animals) rammed the “pirate” whaling vessel *Sierra* on the high seas (FOE 1979, 1980). This was a quite serious event:

charging like a mad bull whale made of steel, [the *Sea Shepherd*] attempted a full-scale ramming amidship. The concrete-reinforced steel bow of the *Sea Shepherd* tore into the *Sierra* like a big axe blade, ripping the whaler open with a gash eight feet long and six feet wide, buckling in the whole side of the ship (Day 1987:55).

The *Sierra* limped back to port but was later blown up there. Day (1987:62-3) suggests that the same unnamed people also sank the *Isba I* and *Isba II* at port in Spain. At about this time, Sea Shepherd posted reward posters offering a bounty of up to \$25,000 for sinking the whaler *Astrid* (Day 1987:61; FOE 1980). Most recently, Paul Watson (of the group *Sea Shepherd*) claimed credit for sinking the Norwegian “outlaw whaler” *Nytbraena* in 1992 and damaging the whaling vessel *Senet* while it was in port in 1994. Greenpeace has not endorsed such actions.

The Greenpeace actions were highly dangerous and provoked protests by whalers who denounced the actions as endangering lives and as provoking violence – shots were fired at activists in 1999 (HNA 1999, 1996). But the Sea Shepherd actions against Norway resulted in what must be seen as a public relations disaster for the (always modest) anti-whaling forces in that country. These actions received enormous press coverage. The High North Alliance was consequently successful in characterizing the anti-whaling movement as “terrorist”, and NHA representatives contacted the US FBI to press the point home. Norwegian environmentalists disowned even Greenpeace actions and the Norwegian Fisheries Department withheld the names of whaling vessels on the grounds that releasing the information threatened the safety of the vessels (*Fiskaren* 1997) and insurance companies were said to be denying coverage to these vessels on the grounds that they were operating under conditions of war.

Conclusion

In the end, the cascade in favor of a “no-commercial whaling” norm may have been only an illusion. Illusions can become really in the world of norms, of course, but they can

just as easily fade away. The no-whaling norm was too much of a change and the anti-whaling forces have not been able to overcome the resentment and opposition that their purposely shocking “norm-breaking” behavior provoked.

The analysis here suggests that it is very unlikely that the anti-whaling norm will become institutionalized. Instead, support for the moratorium within the IWC is much more likely to erode. The anti-commercial whaling movement has alienated rather than inspired the publics of those countries that continue to whale. Does that mean the anti-whaling effort has simply failed?

There are those who say that it has—that NGO involvement came at a time when the IWC had finally taken the path towards science-based management. In this reading, the NGOs were too late to have a positive influence in this battle. Instead, their involvement has come very close to destroying the organization.

But, however it comes out in the near future, the “save the whale” movement may yet have had a net positive effect -- even if some of these benefits may be unintended. First, because science-based management became the rallying point for the pro-whaling forces, the movement has forced whaling states, very publicly and loudly to insist upon it. Second, there was a marked increase in scientific studies of whales. There is still a good deal that is not known, but progress has been made. Thirdly, an enormous amount of effort has gone into producing a management plan (based on cautious science) to prevent the abuse of previous years. Fourth, the movement has made it clear that whales have value for many beyond their value as a resource. This is, ironically enough, true for both sides. By insisting on the importance of whales to their culture, the coastal whalers have distanced themselves from the whaling operations of the bad, old days. Finally, the whaling issue has provided a venue for organization by friend and foe of whaling alike.

These contributions could fade away too, if the anti-whaling movement fails to accept the management plan soon. Should the IWC fail, whaling will likely be done under the aegis of organizations such as NAMMCO, which has a highly selective membership and which stands ready to take over management chores.

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Arrested Development is an American television sitcom created by Mitchell Hurwitz, which originally aired on Fox for three seasons from November 2, 2003, to February 10, 2006. The show follows the Bluths, a formerly wealthy dysfunctional family. It is presented in a serialized format, incorporating handheld camera work, voice-over narration, archival photos, and historical footage. The show also maintains numerous running gags and catchphrases. Ron Howard serves as both an executive producer and the Arrested Development. 2003TV-14 5 Seasons Sitcoms. It's the Emmy-winning story of a wealthy family that lost everything, and the one son who had no choice but to keep them all together. This quirky cult hit won the Emmy for Outstanding Comedy Series the year it premiered, among other awards. Additional Videos. Arrested Development. Arrested Development: Season 5 (Trailer). Arrested Development: Season 4 (Trailer). Arrested Development: Season 5 Part 2 (Trailer). Arrested Development: Season 2 (Trailer). Arrested Development is an American television sitcom created by Mitchell Hurwitz, which originally aired on Fox for three seasons from November 2, 2003, to February 10, 2006. In November 2003, the producers of the show were sued by the hip hop group Arrested Development over the alleged use of their name.[18] Rapper Speech from the group said "The use of our name by Fox is not only confusing to the public, but also has the potential to significantly dilute what the 'Arrested Development' name means to our fans".[18].