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## **Beached Whales: Examining Japan's Rejection of an International Norm**

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**Abstract** Much of the analysis of international norms has focused on norm diffusion at the systemic level. This study argues that such analyses based on neorealism, neoliberal institutionalism, and constructivism have two major shortcomings. One is that they pay much attention to successful cases of norm diffusion but neglect failed ones. The other is that they fail to examine the linkage between international norms and domestic structures in the processes of norm diffusion. By neglecting this linkage, systemic-level studies cannot clarify specific mechanisms and process through which international norms reach the domestic arena. This study stresses that domestic structures, in particular cultural and political structures, are the key factors allowing international norm diffusion at the domestic level. Analyzing Japan's refusal to accept an anti-whaling norm, this paper argues that these domestic structures have served as filters to block the emergence and acceptance of the norm in Japan.

Why do some states defy norms embedded in regimes and international institutions, even when doing so brings international condemnation and no substantial material benefit?

To address these questions, this paper analyzes the case of Japan's whaling practices. Many observers find it puzzling that Japan refuses to comply with an international anti-whaling norm even though Tokyo does not benefit politically or economically from whaling. The industry contributes little to the Japanese economy (Kalland and Moeran 1992). At the same time, Tokyo's whaling policy subjects to international condemnation and harms the country's international standing and image. Why doesn't Tokyo give whaling up and join the international community in embracing the anti-whaling norm?

International relations scholars have diverse views of the diffusion of international norms at the systemic level. Regime theorists contend that states as rational actors comply with international norms based on cost-benefit calculations of material benefits (Krasner 1993; Keohane 1984). In contrast, constructivists emphasize the role of transnational activist networks in norm diffusion (Keck and Sikkink 1998) and the role of socialization and peer pressure at the systemic level (Florini 1996; Sikkink 1993; Finnemore and Sikkink 1998).

However, neither regime theorists nor constructivists can adequately explain why Japan defies the anti-whaling norm. On the one hand, the perspectives of regime theory cannot account for Japan's stance, which is based neither on a response to hegemonic threats nor a rational calculation of material benefits. On the other hand, the constructivists' concept of transnational activist networks is not applicable to the Japanese whaling case, as such networks have exerted little influence over Japan's policy. In addition, the constructivist notion of norm evolution and norm compliance through socialization is not applicable, since Japan has failed to comply with strong international pressure on behalf of the anti-whaling norm.

In general, these systemic-level analyses can parsimoniously explain overall trends of norm diffusion at the international level. However, they focus only on successful cases of norm diffusion and fail to explain unsuccessful ones. They also have difficulty accounting for specific cases of norm diffusion at the domestic level and are unable to explain the specific mechanisms by which international norms reach the domestic front. These shortcomings derive from the fact that systemic-level research

pays little or no attention to the linkage between international norms and domestic structures.

The explanation of Japan's non-compliance lies in its domestic politics. In particular, one should not ignore the domestic political and cultural structures, both of which are critical in determining Japan's non-compliance decision (see general discussion of these structures in Checkel 1999). These structures have prevented "norm entrepreneurs" (Nadelmann 1990; Finnemore 1996; Florini 1996; Finnemore and Sikkink 1998: 896-901) from gaining access to the decision-making process and from persuading policy leaders and the general public the legitimacy of the anti-whaling norm.

To analyze this case, this paper first presents a brief overview of the literature on international norm diffusion, with a focus on regime theory (i.e., neorealism and neoliberal institutionalism) and constructivism. Next, the paper analyzes how domestic, cultural and political structures affect international norm diffusion at the domestic level. The paper then goes on to discuss the anti-whaling norm in particular. It analyzes the evolution of the norm, Japan's non-compliance, and the effect of Japanese cultural and political structures on diffusion of the norm. The paper ends with a concluding analysis of the failed norm adoption in Japan and its theoretical implications.

## **1. International Norm Diffusion**

What is a norm? I deploy Krasner's definition of norms, which is commonly accepted by international relations scholars. Norms are "standards of behavior defined in terms of rights and obligations" (Krasner 1983: 2). Norms have varying strengths. As Legro (1997) notes, different norms generate different degrees of agreement. Some norms are international, whereas others are regional, domestic, or local. In related issue

areas, there may be competing norms. If a norm has not been fully internalized by actors and still generates disputes regarding its validity (see Finnemore and Sikkink 1998), the norm may face another competing norm that embraces a different set of rights and obligations. Norm salience at the international level depends in large part on which states promote a norm in question. Some states are crucial to the process of norm dispersion, as they can effectively exercise diplomatic power to persuade other states to accept the norm.<sup>1</sup>

Regime theorists view norms from a utilitarian perspective that posits actors as following the logic of consequences (March and Olson 1989). From this perspective, state actors are utility maximizers, pursuing their desired goals based on rational, cost-benefit calculations, and actors comply with norms that match their interests and objectives. In other words, regime theorists contend that norms have an instrumental role in affecting state behavior and that norm compliance reflects the self-interested and rational behavior of states.

Regime theory is largely divided into two camps: neorealism and neoliberal institutionalism. Neorealists are especially interested in the role of a hegemon in enforcing norms. From their perspective, international norms emerge and spread when they are promoted by a hegemon. Norm compliance occurs because of hegemonic coercion: the hegemon coerces an international norm upon other states by means of

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<sup>1</sup> In the case at hand, both anti- and pro-whaling norms have some degree of international support and thus compete with each other. Whaling is a highly controversial issue and neither of the norms has full support from all the states around the globe. At the same time, the institutionalization of strict anti-whaling regulations within the IWC helps to project the anti-whaling norm internationally. The anti-whaling norm is also strengthened by the political and economic influence of its main supporters, which include United States and most other developed countries.

economic or military sanctions. Thus, so the argument goes, norm compliance is associated with the national survival for weak states. Neorealists assume that norms reflect the distribution of material capabilities in the international system. Thus in their view, norms change with the rise and fall of hegemons (Gilpin 1981; Krasner 1993).

The neorealist analysis of norms does not travel well to the Japanese whaling case. Although the international anti-whaling regime (specifically the International Whaling Commission, IWC) is led by the United States, Washington as a hegemon has not been able to force Japan to abandon whaling, especially its “scientific” whaling program that began in 1987 (see below). Even though the anti-whaling norm was strengthened in the 1970s and 1980s due in large measure to increased US pressure, Japan’s basic position on whaling has not changed. While Japan accepted the IWC’s moratorium on commercial whaling in the 1980s due to the threat of US sanctions, Tokyo began the scientific whaling program immediately after it adopted the moratorium despite US opposition, thus challenging the authority of the hegemon. In addition, the neorealist notion of materialism does not account fully for Japan’s non-compliance. Even though Tokyo accepted the moratorium out of material concerns (based on the fear of economic sanctions), its switch to scientific whaling reopened the door to other sanctions.

According to neoliberal institutionalism, norm compliance occurs even in the absence of hegemonic coercion. From this viewpoint, norm compliance is voluntary. While neoliberals share the neorealist view of states as rational actors pursuing material interests in an anarchic world, they assert that rationalism and anarchy do not exclude cooperation and that states comply with international norms because of long-term material incentives (“the shadow of the future”). To neoliberals, norms reduce

uncertainties, minimize transactions costs, and facilitate cooperation among self-interested states. Neoliberals argue that states may comply with norms even though doing so would make them forgo short-term material interests; states are concerned more with long-term material interests or absolute gains than with short-term relative gains (Keohane 1984).

When applied to the Japanese whaling case, neoliberals would have us believe that Tokyo complies with the anti-whaling norm because, as a rational actor, it finds long-term material benefits from such cooperation. But this is not true in the Japanese case. Tokyo instead continues to embrace whaling against Japan's own rational interests. Many anti-whaling states are important political and economic allies of Japan. The United States in particular is Japan's single most important ally, protecting Tokyo's security and providing a vast market for Japanese goods. Whaling could hurt US-Japan relations, and Tokyo's persistent embrace of whaling has subjected Japan to repeated US threats of economic sanctions (Pearlstein 2000; Struck 2000). However, the Japanese government still refuses to stop whaling. From a utilitarian point of view, the Japanese policy is characterized by a myopic short-term perspective that threatens Tokyo's long-term economic and political interests.

According to some constructivists such as Keck and Sikkink (1998), transnational advocacy networks—consisting of groups and individuals united by common principles, values, and beliefs who exchange information and resources in a nonhierarchical, voluntary, and reciprocal manner—are key actors in the process of norm creation, diffusion, and enforcement. In their view, these networks lobby, mobilize information, and use material leverage to pressure states to conform to international norms. However,

the role of transnational advocacy networks is extremely limited in the Japanese whaling case. Even though activist groups such as Greenpeace have protested vigorously against Japan's whaling practices (e.g., by mobilizing public opinion, holding rallies, and even trying to physically block Japanese whaling vessels), their direct, often provocative campaigns have not been successful in reversing state policy. Rather, these protests have angered state officials and hardened their pro-whaling stance, while at the same time alienating the public (Komatsu 2000; Morishita 2002).

Constructivists have also examined the evolution of international norms at the systemic level. Finnemore and Sikkink (1998) have introduced the concept of norm cascade, meaning that when support for a particular norm reaches a threshold or tipping point, norm diffusion will be fast, as social interaction around the norm brings more and more states into line, producing a cascading effect. However, this cascade analysis is not useful for explaining the Japanese pro-whaling behavior. Even though the anti-whaling norm long ago reached the tipping point internationally (Friedheim 2001; see discussion below), norm diffusion has not occurred in Japan. Tokyo not only refuses to accept the principles prescribed in the norm but also maintains its abrasive pro-whaling rhetoric that shows little sign of concession or conformity. Thus, the constructivist argument that social interaction influences compliance decisions does not hold in the Japanese case.

## **2. Bringing in Domestic Politics**

These system-level analyses are useful for illuminating the broad phenomena of norm diffusion at the international level, but they are ill equipped to explain how international norms reach the domestic level. International norms need to be linked to domestic structures, and without domestic institutions in favor of the emergence and

acceptance of ideational alternatives, new norms are unlikely to emerge and spread domestically. In other words, domestic structures serve as filters for international norm. Here I emphasize two domestic structures critical for international norm adoption: domestic cultural and political structures.

## **2.1 Domestic Cultural Structure**

International norm diffusion is influenced by the degree of cultural match between international norms and the cultural characteristics of the domestic population. I use Checkel's (1999:87) definition of cultural match:

a situation where the prescriptions embodied in an international norm are convergent with domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, law), and bureaucratic agencies (organizational ethos and administrative procedures).

For international norms to be empowered domestically, the prescriptions embedded in the norms must be compatible with the views embedded in the political culture of a target state.<sup>2</sup> As Hawkins (2001: 11) argues, “[i]nternational norms are more likely to have an impact if they resonate with established cultural understandings, historical experience, and the dominant views of domestic groups”. When there is a cultural match, domestic actors are likely to take the international norm more seriously, recognizing the obligations associated with the norm. Conversely, the salience of foreign norms in the domestic polity can be hindered by the lack of a cultural match (Checkel

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<sup>2</sup> Political culture consists of ideas, attitudes, and beliefs held commonly by a people, which form the basis for their political behavior. According to Risse-Kappen (1994: 209), political culture refers to “those worldviews and principled ideas— values and norms—that are stable over long periods of time and are taken for granted by the vast majority of the population.”

1999). If the international norm conflicts with the domestic political culture, domestic actors may resist international pressure to adopt the norm. They may find the acceptance of the international norm as compromising state sovereignty (Cortell and Davis 2000).

An international norm's domestic salience largely derives from the legitimacy accorded it in the domestic cultural context. Thus, a norm's domestic strength may not always correspond to the norm's international standing (Goertz and Diehl 1992: 646). A norm that is internationally well accepted lacks domestic salience if it is denied legitimacy domestically due to, for example, a cultural mismatch. Such a denial might be expressed by the state repeatedly failing to comply with the norm's obligations or refusing to ratify agreements associated with the norm.

Cultural match is, of course, issue specific (Checkel 1999). Thus within the same state, there may be a match with one international norm but not with another. For example, there is a poor match between the international norm against whaling and the domestic culture (see below) but a strong match between other international norms and Japanese culture (e.g., the anti-nuclear proliferation norm).

According to Checkel (1999), cultural match is not a dichotomous variable but rather scales along a continuum. At one end is a positive match, indicating complete congruence between an international norm and domestic culture in a particular issue area. At the other end is a negative match, which marks no congruence between international norm and domestic culture. In the middle is a null match, where the domestic arena contains no obvious normative barriers to a particular international norm (Checkel 1999: 87).

Cultural match is difficult to measure (Cortell and Davis 2000). But one can say that the match is low when only a small percentage of the population endorses an international norm and the state refuses to legitimize it. High levels occur when not only the state but also groups representing a broad range of society endorse the norm (Hawkins 2001).

Cultural match is not limited to traditions and customs. It also extends to individuals' belief systems, ideologies, and perceptions shaped by socio-cultural environments. For example, in their study on a missionary campaign against female genital mutilation (FGM) in Kenya in the 1920s, Keck and Sikkink (1998) showed how the diffusion of an anti-FGM norm depended on the perceptions of domestic actors. Villagers saw the campaign as a symbol of colonialism, that is, an attempt to impose Western values upon the local, and reacted to the campaign negatively, appealing to local traditions as a way of strengthening domestic unity.

## **2.2 Domestic Political Structure**

International norm diffusion is also affected by the domestic political structure. Cortell and Davis (1996) have introduced four types of domestic structures to explain cross-issue variation of norm diffusion (see Table 1).<sup>3</sup> According to them, the domestic structures are likely to vary within a country across different issue areas. Decision-making authority varies depending on the norm involved, along a continuum from decentralized to centralized, depending on the number of bureaucratic agencies or other governmental apparatuses involved. Similarly, state-society relations vary (along a continuum from close to distant). Of the four types of structures that Cortell and Davis

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<sup>3</sup> According to Cortell and Davis (1996: 454), “domestic structure refers to the organization of decision-making authority and to the pattern of state-societal relations.”

have identified, what they call a “Type I” structure (centralized decision-making authority/distant state-societal relations) is most relevant to the Japanese whaling case (see more discussions below).

According to Cortell and Davis, in a Type I structure, decision-making authority is restricted to few government agencies. Since the state is autonomous and insulated from society, government officials who oppose a change in policy can successfully block norm acceptance. Unless top policy makers adopt international norms, the relevant state policies will not change. In this model, societal actors such as non-governmental organizations (NGOs) hardly play a role. Even if NGOs appeal to international norms, they are unlikely to succeed in changing state policy because within the decision-making mechanism, there are few access points available to NGOs. Many typical pathways for affecting policy, such as public opinion and pressure from citizens groups, are blocked. The Type I structure is a statist model, representing an elitist, top-down decision-making structure.<sup>4</sup>

In this centralized political structure, the adoption of norms is difficult as decision making solely depends on the state elite. However, once norms are adopted through elite learning via persuasion—i.e., by being convinced through argument and principled

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<sup>4</sup> In a Type II structure, state-societal relations are close. This means societal actors have access to the decision-making process. However, the decision-making authority is still centralized and thus societal actors need to work closely with the state to bring about change. In the Type III structure, state primacy is expected because state-societal relations are distant and there is no institutional mechanism that links societal actors to the decision-making process. However, the Type III differs from the Type I structure in that decision-making authority is decentralized across various state institutions. Thus actions and interests of these state institutions are not unitary. In a Type IV structure, state-societal relations are close and the state decision-making authority is disbursed. Thus societal actors can work with diverse state agencies to wield influence (Cortell and Davis 1996).

debate (Checkel 2001: 562)—the implementation of policies based on the norms is likely to take place (see Checkel 1997). In contrast, in a more pluralistic, less-centralized structure where societal actors have many access points through which to influence policy (Type IV), international norms may enter more easily but are less likely to be implemented due to a fragmented decision-making structure (see Sikkink 1991; Checkel 1997).

**Table 1 Cortell and Davis’s Typology of Domestic Structural Contexts**

	Pattern of state-society relations (distant)	Pattern of state-society relations (close)
Structure of decision-making authority (centralized)	Type I	Type II
Structure of decision-making authority (decentralized)	Type III	Type IV

(Cortell and Davis 1996: 455)

In a Type I structure, transnational actors have difficulty penetrating into the domestic decision-making process. Risse-Kappen (1994, 1995) argues that transnational norm entrepreneurs must have an alliance with domestic groups supporting their cause to have an impact. In his view, they must build winning coalitions to influence domestic policy and these domestic groups need to provide necessary channels into the political systems (Risse-Kappen, 1994). However, the Type I structure does not allow this kind of coalition building between transnational actors and domestic ones.

In short, domestic cultural and political structures are important variables for influencing state compliance with international norms. Yet, they are usually neglected in research on international norm diffusion. The following section will address these

domestic variables by examining how they have affected the diffusion of the anti-whaling norm in Japan.

### **Evolution of the Anti-whaling Norm**

The emergence and diffusion of a norm against whaling is a relatively recent phenomenon. The norm has emerged and spread since the 1970s, particularly through institutionalization via the International Whaling Commission (IWC).<sup>5</sup> The IWC was created in 1948 to implement the International Convention for the Regulation of Whaling (ICRW) of 1946. The purpose of the ICRW was “to provide for the proper conservation of whale stocks and thus make possible the orderly development of whaling industry” (International Whaling Commission 2002).

Although the IWC was initially interested in the sustainable *use* of whales (i.e., the orderly development of the whaling industry), the IWC has become more concerned with the *preservation* of whales (i.e., stopping the killing of whales that may otherwise extinct; see Stoett 1997; Friedheim 2001) or even with the *protection of the welfare* of whales (i.e., ending the suffering of whales “irrespective of their conservation status and irrespective of the benefit of such actions to humans”; Harrop 2003: 81). Several factors account for this shift in orientation. First, the composition of the IWC membership has changed since the 1970s. Although the IWC was initially dominated by whaling states, it rapidly incorporated an increasing number of non-whaling and anti-whaling states in the 1970s and 1980s. The number of member states increased from 14 (1972-73) to 39 (1983-84), including many actually anti-whaling states (e.g., New Zealand, the

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<sup>5</sup> The first attempt to regulate whaling was the Convention for the Regulation of Whaling, adopted by the League of Nations in 1931. It was designed to stabilize prices for whale oil and spermaceti. However, it had no enforcement powers and was unable to prevent excessive exploitation of whaling stocks (Stedman 1990).

Netherlands). By 1983, 28 of the 39 member states were non-whaling states (Day 1987: 97; Peterson 1992: 176-178).<sup>6</sup>

Second, Western environmental movements began to influence IWC decision making. In the 1960s, Western environmental NGOs, such as Greenpeace and World Wide Fund for Nature, began international “save-the-whales” campaign, calling for whale sanctuaries and a moratorium on commercial whaling (Mandel 1980). Their efforts paid off. In 1978, the IWC passed a US-backed resolution to allow NGOs to participate in IWC proceeding meetings as non-voting observers. Since then, numerous anti-whaling environmental groups have taken full advantage of this participation, demonstrating and circulating position papers, presenting their research results, advising delegations, and even participating in some delegations at IWC meetings (Stedman 1990; Spencer 1991; Friedheim 2001). As non-voting observers, the anti-whaling NGOs’ goal was to influence voting members to bring about a total ban on whaling. These NGOs argued that the number of whales had declined sharply and that whale stocks needed to recover. The number of NGO participants at the IWC greatly increased in the 1970s and 1980s, and many of them began to work with their anti-whaling state delegates through interagency meetings prior to IWC sessions (Stedman 1990). Also, these NGOs reportedly contributed to the expansion of the IWC membership by footing the membership fees and writing the required membership documents for small, poor non-whaling states to become members of the IWC, so that anti-whaling states would grow to outnumber whaling states within the organization (Spencer 1991; Friedheim 2001).

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<sup>6</sup> As of 2003, there were a total of 51 member states in the IWC (International Whaling Commission 2003). This number includes several newly-admitted Caribbean states that are sympathetic to whaling, but that have little political influence due to their small size and impoverished economies.

Third, like-minded anti-whaling states such as the United States, Britain, Australia, New Zealand, Germany, and France, established a successful coalition at the IWC. The coalition has been able to command more than half of the IWC votes by picking up many swing votes and has thus been able to control many IWC decisions. These like-minded states closely worked with environmental NGOs to influence voting at the IWC (Stedman 1990; Friedheim 2001).<sup>7</sup>

New international awareness of the importance of whale preservation led to the adoption of important legal measures outside the IWC in the 1970s. The US Congress passed two pieces of domestic legislation in regard to the protection of whales: the Marine Mammal Protection Act (1972) and the Endangered Species Act (1973). In addition, the 1972 UN Conference on the Human Environment in Stockholm passed a ten-year moratorium on commercial whaling as a result of intense campaigns by environmentalists and the US government (Stedman 1990; Wong 2001). Although the IWC rejected the Stockholm resolution, reflecting the then pro-whaling sentiment at the IWC, this resolution marked an important first step for the whale preservation movements in many parts of the world.

The Stockholm initiative paved the way towards the eventual IWC adoption of several resolutions to restrict whaling. In 1974, the IWC adopted the New Management Procedures (NMP) as a substitute for a moratorium. The NMP divided whale stocks in three categories, set quotas for each one on the grounds of scientific assessments and

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<sup>7</sup> Most of today's anti-whaling states practiced commercial whaling in the past. For example, American whaling fleets hunted whales in the Pacific Ocean in the 19th century (and even pressured Japan to open its ports to US whaling ships). However, the US whaling industry died out as cheaper fuel in the form of kerosene was discovered (Fujimoto 2003).

sustainability, and held that the commercial whaling of depleted stocks be halted until their recovery.<sup>8</sup> Then, in 1976, whale species were allocated separate quotas so that depleted ones would be protected. In 1979, the IWC banned pelagic whaling except for with the abundant minke whales in the Antarctic Ocean. In the same year, the IWC established the Indian Ocean as a cetacean sanctuary (Stedman 1990).

In 1982, ten years after the Stockholm initiative, the IWC adopted a blanket moratorium on all commercial whaling to be implemented in 1985-1986. The moratorium was highly controversial. It was never endorsed by the IWC's Scientific Committee, which did not see the need for a blanket moratorium on all species (Kalland 1998). Some pro-whaling member states such as Japan and Norway lodged an objection to the IWC decision and attempted to continue commercial whaling under quotas determined by their own governments (Friedheim 2001).<sup>9</sup>

The United States, the architect of the moratorium, played a significant role in promoting the anti-whaling cause, by utilizing US domestic laws to enforce the moratorium, often threatening economic sanctions against whaling states. Under the 1979 Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act,<sup>10</sup> the United States threatened to immediately end Japan's fishing quota in the US 200-mile Exclusive Economic Zone (EEZ) if Tokyo continued commercial

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<sup>8</sup> These categories are the Protection Stocks (PS, the highest category including right, gray, humpback, blue, fin, and sperm whales), the Initial Management Stocks (IMS), and the Sustained Management Stocks (SMS). Commercial whaling was permitted for only IMS and SMS (Friedheim 2001: 4).

<sup>9</sup> IWC members can legally exempt themselves from applying the organizations' resolutions. They can file a formal objection under Article 5 and shed the obligation of enforcing a rule to which they object (Friedheim 2001).

<sup>10</sup> According to this law, a foreign country's fishing allocations in the US EEZ are to be removed if the Secretary of Commerce determines that country is engaged in whaling operations which diminish the effectiveness of the ICRW (Sumi 1989).

whaling. Since Japan's economic interests in the US EEZ were substantial and Japanese officials did not want to antagonize relations with the United States, Tokyo reluctantly signed the Murazawa-Baldrige pact in 1987 to drop its objection to the IWC moratorium in exchange for a *quid pro quo* of being allocated a fishing quota in the US EEZ (Sumi 1989; Wong 2001).

The 1982 moratorium was initially intended to be a temporary measure, as the IWC planned to halt commercial whaling from 1986 for five years and conduct a comprehensive assessment by 1990 as a basis to reconsider the moratorium. But it has become a *de facto* permanent ban on commercial whaling. Although the comprehensive assessment was done by the IWC Scientific Committee, finding that many whaling stocks had recovered, the broader IWC refused to implement the Scientific Commission's "Revised Management Scheme" (RMS) which would have eased the ban.<sup>11</sup> Furthermore, the moratorium was supplemented by a Southern Ocean sanctuary, adopted by the IWC in 1994, to target Japan, which had been trying to resume commercial whaling in the Southern Ocean area (Friedheim 2001).

How did the anti-whaling states succeed in persuading other IWC members to support their cause? Much credit should be given to the way IWC delegates representing the anti-whaling states, together with Western NGOs, strategically framed the whaling issue. They developed two overlapping discourses on whaling. One, supported by environmental NGOs, concerns ecological protection and contends that whales are an

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<sup>11</sup> In 1991 IWC accepted the Revised Management Procedure (RMP) as a scientific formula for sustainable, regulated whaling. In 1992, the RMS was proposed to the IWC to include rules for conducting surveys of whale numbers and for the inspection and observation of commercial whaling; the RMP was to be included in the RMS. However, neither the RMP nor the RMS has been implemented and formally adopted into the IWC Schedule (Burns 1994; Friedheim 2001).

endangered species needing protection. The other, supported by animal rights organizations, centers around ethics and morality, contending that whales are intelligent, friendly, and the largest mammals on earth and that it is barbaric to kill them. The anti-whaling advocates have often presented these two discourses altogether. According to Kalland and Moeran (1992: 8), these advocates have created an image of a “super whale” that is the largest animal on earth (applicable only to the blue whale), has the largest brain (the sperm whale), and is friendly (the gray whale) and endangered (the bowhead and the blue whale).

In recent years, the morality-based discourse has become more popular among anti-whaling advocates than the discourse emphasizing ecological protection. According to Kalland and Moeran (1992), this shift has occurred because advocates have found it difficult to scientifically defend the position that all whales are endangered. In fact, some scientists, including even those on the IWC’s Scientific Committee, claim that the whales placed in the highest IWC category as Protection Stocks have recovered and that at least one of these—the minke whale—is abundant (Aron 1988: 104; Gulland and Klinowska 1988: 44; De Alessi 1995; Friedheim 2001: 4).<sup>12</sup> Yet, these types of science-based viewpoints are largely ignored by anti-whaling advocates (Peterson 1992; Aron 2001) who instead condemn whaling as an immoral and shameful practice (Friedheim 2001: 5).

With the increasing legitimacy of the anti-whaling norm, some delegates representing anti-whaling states at the IWC have begun to argue that whales are fungible, that is, that there are adequate substitutes for whale meat such as beef and chicken and

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<sup>12</sup> The scientific community is sharply divided on the recovery of whale stock. Scientists representing the anti-whaling states are highly skeptical of those representing the whaling states (Burns 1994).

thus people in whaling countries have no need to eat whale. It is also claimed that whaling is acceptable only if carried out by indigenous peoples as part of a subsistence economy. From this viewpoint, whaling should not be commercialized and non-indigenous peoples like the Japanese have no right to engage in commercial whaling.

With the moratorium and sanctuaries in place, the anti-whaling norm has become institutionalized at the IWC and the pro-whaling states in the organization, who are led by Japan, have been under growing pressure to abandon their whaling practices. Referring to Finnemore and Sikkink's (1998: 888) notion of norm "life cycle," Friedheim (2001: 9) claims that a dominant anti-whaling norm has emerged at the international level:

The preservation norm has gone through a "tipping point" and has "cascaded" throughout the world community, and all that needs to be done is to have it "internalized" by the peoples and governments of the world.

Today, most industrialized states oppose whaling and have shown little sympathy for Japan's claim to a right to whale. In particular, the United States has become the principal advocate of the anti-whaling cause, which has been taken up by numerous environmental NGOs in the US as well as by members of Congress.

Japan has some sympathizers at the IWC, but with the exception of Norway and Iceland, Japan's supporters are mostly small Caribbean states with little international economic or political clout. (Russia's support for whaling is limited to lobbying for small-scale whaling by indigenous groups rather than for broader pro-whaling measures. China and South Korea are often sympathetic to the Japanese position, but they usually remain neutral on the issue. The two countries banned whaling in 1979 and 1986

respectively.) The combined power of the pro-whaling states is dwarfed by that of the anti-whaling states, which include the US and most other Western nations. As in other global prohibition regimes, the United States and Western European states have exerted great power in the anti-whaling regime, sometimes through the means of “bullying” and “buying” (DeSombre 2001: 186)<sup>13</sup> In the face of this political and economic pressure, as well as the anti-whaling sentiment of much of the public in the developed world, Japan and its allies have been unsuccessful in promoting a pro-whaling norm.<sup>14</sup>

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<sup>13</sup> For a discussion of the IWC as an international regime, see Andresen 2002.

<sup>14</sup> Even though the number of pro-whaling IWC members has increased in recent years (due in particular to the addition of several Caribbean nations), they are still outnumbered by anti-whaling states. In addition, they cannot overturn existing whaling regulations such as the 1982 moratorium, since such changes require a two-thirds majority vote that Japan and other pro-whaling states cannot garner. Japan’s inability to change international regulations to restart commercial whaling is also exemplified in another international organization concerned with whaling: the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Although many CITES member states are sympathetic to Japan, they have not successfully institutionalized the pro-whaling cause. For example, CITES has repeatedly rejected Japan’s proposals to downlist a few species of whales (e.g., minke whales) from Appendix I (most endangered species) to Appendix II (potentially endangered species subject to monitored or managed trade) of the convention. If accepted, these proposals would have allowed resumption of commercial trade of these species. In 2002, Japan proposed to downlist minke whales and Bryde’s whales to Appendix II, but it failed to muster even a majority of vote. (A two-thirds majority is required for such proposals to be approved.) The delegates voted 54-41 to reject Japan’s minke whales proposal and 63-43 against the Bryde’s whale proposal (Bell 2002; United States Department of the Interior 2002). CITES and the IWC usually work cooperatively and complementarily. When the IWC moratorium entered into force in 1986, CITES agreed to include in Appendix I all species of whale listed in the ICRW Schedule. CITES regulates whale products in international trade, while the ICRW provides for the conservation and management of whale stocks (Convention on International Trade in Endangered Species of Wild Fauna and Flora 2000).

### 3. Japan and Whaling

#### 3.1 Japan and the IWC

Japan joined the IWC in 1951. However, it has never institutionalized the anti-whaling norm prevalent in the organization. Even though it accepted the 1982 moratorium for the *quid pro quo* fishing arrangement with the United States, Tokyo began scientific whaling in the Southern Ocean and North Pacific in 1987 and continued to sell whale meat in the Japanese market after the completion of its research.<sup>15</sup>

Japan's scientific whaling program has raised strong international condemnation, both from anti-whaling IWC states ('Emotions Escalate' 2000; 'UK Warns Japan' 2002; Yamaguchi 2002) and from nonstate actors in the West including NGOs (see for example Greenpeace 2000), media (see for example McKillop 2000), and academics (see for example Diamond 2002). These critics claim that Japan's scientific whaling is just a cover to get around the 1982 moratorium.

Japan has tried, but failed, to reverse the anti-whaling trend at the IWC. Tokyo unsuccessfully tried to lift the moratorium on commercial whaling. Japan also lobbied the IWC to give Japanese coastal communities that have traditionally depended on the small type coastal whaling (STCW) the same rights as aboriginal communities in North America. Japan has repeatedly appealed to the IWC for special relief quotas of 50 minke whales for these coastal communities. Japan sees it as contradictory that while the hunting of small type minke whales in Japanese waters (under the STCW scheme) is prohibited, the Alaskan Eskimos are allowed to harvest bowhead whales each year, even

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<sup>15</sup> An anonymous reviewer pointed out that Japan's decision to start scientific whaling was influenced by the US decision to eventually end all foreign fishing rights in the US EEZ by 1988. Japanese officials felt that once Japan lost its fishing rights in US territory, the country would have little else to lose by whaling.

though this species is considered to be exceptionally endangered. The Japanese Fisheries Agency has maintained that those Japanese whaling villages have suffered undue hardship (Kalland and Moeran 1992; Ministry of Agriculture, Forestry, and Fisheries [MAFF] 2002b). However, the IWC has repeatedly rejected the Japanese request on the grounds that Japan's STCW contains a commercial element and thus violates the moratorium (Friedheim 2001: 135).

Despite the IWC rejection and international condemnation, Tokyo has remained defiant. It has harshly criticized anti-whaling states, transnational NGOs, and the IWC. Masayuki Komatsu, Japan's alternate commissioner to the IWC, expresses his frustration with the United States, which promotes the indigenous whaling rights of the Inuit in Alaska:

Japan is tired of asking year after year for 50 minke from an abundant stock for our traditional coastal whalers only to have the United States vote against it; yet we have always supported the Alaskan's taking almost 280 bowhead whales.

(Ministry of Agriculture, Forestry, and Fisheries [MAFF] 2002a)

In a similar tone, the Japanese Fisheries Agency has criticized the anti-whaling members of the IWC:

It [ICRW] is not a treaty for the total protection of whales. It is a treaty whose purpose is to ensure the sustainable use of whale resources. . . . Those members of the IWC who are opposed to the sustainable use of whale resources and who try to impose their views on the rest of the world are subverting the purpose of the treaty and have caused the IWC to become dysfunctional. (MAFF 2002c, parenthesis added)

Judging from these official statements, one can assume that Japan is not likely to change its position on whaling in the near future. Japan has insisted, and will likely continue to maintain, that whaling is a matter of resource management and that the practice should be allowed as long as whale populations are maintained at levels that ensure reproduction.

### **3.2 Japan's Domestic Cultural Structure**

The Japanese public and leaders perceive the whaling controversy largely as a cultural matter. They believe that Japan has distinct *gyoshoku-bunka*, a whale-eating culture (Sumi 1989; Doi 1992; Kalland 1998; Komatsu 2000; Morishita 2002; Osumi 2003).

According to many Japanese scholars and officials (e.g., Ministry of Foreign Affairs [MOFA] 1999; Komatsu 2002; Osumi 2003), Japan's *gyoshoku-bunka* dates back to prehistoric times. Based on the discovery in ancient burial mounds of whaling drawings, whale bones, and hand harpoons, they claim that some Japanese communities first ate stranded whales and then began primitive whaling during the Jomon period (10,000-300 BC). These scholars and officials also argue that with the introduction of large nets in the end of the 17th century, Japanese commercial whaling began in Taiji (near Osaka) and spread to southern Japan in the 18th century and then to northern Japan in the following century. This supposedly led to a collective *gyoshoku-bunka*, with whalers sharing the whale meat with other villagers and with local communities developing their own unique whaling cuisines (Takahashi 1992, Osumi 2003).

According to this view, Japanese have used whales in a distinct manner. Unlike Westerners (e.g., the Americans, British, and Dutch) who used whales principally to

extract oil, the Japanese have used almost the entire whale body for food and oil, without “wasting” any body parts (Komatsu 2002: 31; Osumi 2003: 60-61), so this argument goes.

What is often neglected in these observations, however, is that for thousands of years *gyoshoku-bunka* was limited to certain coastal regions in Japan and that the eating of whale only became commonplace nationally after World War II (due to the necessity to feed the impoverished population; see Kalland 1998). In fact, even during the early 20<sup>th</sup> century, some people in northern Japan resisted killing whales as they saw them as mystical gods (“*Ebisu*”) who looked over communities and helped bring them wealth (Takahashi 1992).

The legitimacy of *gyoshoku-bunka* in Japan rests not only on the Japanese belief system that eating whales is a tradition practiced for thousands years, but also on an idea that whales are a kind of fish and a source of protein.<sup>16</sup> Based on Buddhist teachings, the Japanese historically considered eating fish and whales acceptable, whereas eating land animals as undesirable. This belief is evidenced by several decrees provided by Japanese leaders. For example, Emperor Tenmu, an ardent Buddhist in the sixth century, banned the killing and eating of land animals, except for fish and whales. Similarly, in 17<sup>th</sup> century, Tsuneyosi Tokugawa, the fifth shogun of the Edo period, proclaimed a similar degree (Komatsu 2002; Osumi 2003). Many Japanese observers thus argue that whale eating is an important part of Japanese history and culture, as opposed to the eating of beef which, as they correctly point out, began only in the last 200 years in Japan following Westernization of the country (Sumi 1989).

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<sup>16</sup> This Japanese view of whale as fish is reflected in the Japanese writing system. The *kanji* character for *kujira* (whale) includes a radical that means fish (*uo-hen*).

Because of the perception that whales are fish, many Japanese do not share Western animal rights activists' view of whales' rights. According to one cross-national survey on public attitudes to whaling conducted by North American researchers, there is a wide perception gap between people in Japan and anti-whaling countries. For example, fully 64 percent of the Japanese respondents in the survey stated that there was nothing wrong with whaling if it was properly regulated, whereas only 21 percent of the Australian respondents agreed with the statement. Also, only 25 percent of the Japanese respondents stated that they could not imagine anyone would kill anything as intelligent as whales, whereas 64 percent of the Australian counterparts agreed with the statement (Freeman and Kellert 1992: 4).

Some Japanese pro-whaling advocates see the whaling controversy as a struggle between “meat eaters” (especially the Anglo-Saxons) and “fish eaters” (the Japanese) and even link the controversy to racism and cultural imperialism, especially since the anti-whaling movement is led by the United States, which they see as an aggressor in international relations. They view the anti-whaling imposition as a cultural infringement that one group imposes on another group that is branded as morally inferior (Friedheim 2001). At the 1989 IWC meeting, for example, Japan's commissioner argued that the meat-eating culture was taking advantage of the IWC to destroy the fish-eating culture (Stedman 1990: 157-158). According to this view, it is hypocritical to claim that it is morally wrong to kill certain mammals such as whales but acceptable to kill others such as kangaroos (in Australia), fox (in Europe) and baby cattle (in the US). Any culture has the right to maintain a set of cultural practices, so this argument goes, as long as those

practices do not lead to overharvesting and extinction (Komatsu 2000; Browne 2001; Corliss 2002b; Komatsu 2002).

In defense of Japan's *gyoshoku-bunka*, the Ministry of Agriculture, Forestry, and Fisheries (MAFF) argues:

The consumption of whale meat is not an outdated cultural practice and . . . eating beef is not the world standard. . . . For many cultures in other parts of the world, the consumption of beef, or pork, is unacceptable. Clearly, the acceptance of other cultures' dietary practices and the promotion of cultural diversity is as important as saving endangered species and the promotion of biological diversity. If the consumption of whale meat does not endanger whale species, those who find the practice unacceptable for themselves should not try to impose their view on others (MAFF 2002c).

One may find the Japanese defense of *gyoshoku-bunka* akin to the Korean sentiment over the eating of dog meat. When the 2002 World Cup soccer tournament was held in South Korea, Western animal rights activists, as well as the Federation International de Football Association, criticized what they called the cruelty of the Korean tradition of slaughtering dogs for food. The Korean supporters of canine cuisine in turn expressed their anger at Western critics in their national papers ('Dog Lovers Threaten' 2001) and rallied in Seoul to preserve their tradition ('South Korea's Dog Eaters' 2002). Like the Japanese pro-whaling advocates, the Korean nationalists saw the Western criticism of dog eating as a denial of Korean culture and an imposition of outside values.

Thus, due to cultural incongruence with Japanese beliefs (i.e., a negative match on Checkel's cultural match scale discussed above), anti-whaling norm promoters have not been successful in creating an anti-whaling movement in Japan. Most Japanese environmental NGOs have avoided the whaling question altogether, for fear of alienating the public. Those that have taken up the question have had to confront a populace that is, for the most part, either apathetic on the matter or in support of whaling. Meanwhile, some anti-whaling transnational NGOs, such as Greenpeace International, have established Japanese branches in Tokyo, but the international headquarters usually control planning and implementation of campaigns, thus leaving little room for local offices to design culturally sensitive campaigns (Wong 2001).

In spite of this generally harsh climate for the anti-whaling movement, there is some room to organize. In particular, Japanese youth are more open on the issue of whaling than are the older generations. With Japan's consumption of whale dwindling steadily since 1970, today's Japanese youth have grown up eating very little whale meat, and thus have less emotional attachment than their elders to whale meat and whaling ('Shoogyoo Hogeï Teishi' 2002; Corliss 2002a). Young people in Japan may not believe in the rights of whales, but neither do they have a strong belief in the culture of whaling.

Reaching out to this more open-minded young generation, some Japanese environmental NGOs have taken on the whaling issue. However, they have had little success in affecting policy on this issue. To understand why, it is necessary to consider not only issues of cultural mismatch, but also Japan's domestic political structure vis-à-vis whaling.

### **3.3 Japan's Domestic Political Structure**

The domestic decision-making process over whaling is highly centralized with strong bureaucratic leadership. Bureaucratic leaders are the main advocates of whaling in Japan and this creates obstacles to the diffusion of the anti-whaling norm. The process largely excludes influence over policy by anti-whaling actors, such as domestic and transnational NGOs. The process exemplifies Cortell and Davis's (1996) Type I structure characterized by centralized authority and distant relations between the state and society.

In Japan, whales are not subject to regulation by the Ministry of the Environment or any other environmental body. Rather, two other bureaucratic ministries are in charge of Japan's whaling policy: MAFF and the Ministry of Foreign Affairs (MOFA), with the former far more influential in the matter than the latter. Whaling is under the control of the 1949 Fisheries Law. MAFF, or more specifically, the Fisheries Agency under the supervision of MAFF, has all whaling activities under its jurisdiction (See Wong 2001). MAFF provides personnel to the Fisheries Agency and closely monitors the agency's activities.

Tokyo's harsh criticism of the IWC, anti-whaling states, and transnational NGOs stems from the views of MAFF and the Fisheries Agency (as put forth in particular by the Whaling Division within the Far Seas Fisheries Division of the agency). At the IWC, the Fisheries Agency has repeatedly and aggressively argued that a modest and controlled exploitation of whales (i.e., commercial whaling) should be resumed because there is no ecological reason to abandon whaling entirely.

Why are MAFF and the Fisheries Agency against the anti-whaling norm and instead in favor of scientific research program? At least six factors explain their non-

compliance policy. First, officials in MAFF and the Fisheries Agency viewed the 1982 moratorium as a temporary measure that would last only until 1990, when the IWC was scheduled to conduct scientific research to examine whale resources and possibly allow member states to resume commercial whaling in a sustainable way. MAFF and the Fisheries Agency decided to conduct Japan's own research to demonstrate that there are abundant whale resources that could be harvested. Most officials engaged in whaling in MAFF and the Fisheries Agency are technocrats with extensive knowledge of cetaceans and they believe there is a scientific basis for whaling (See Morishita 2002).

Second, MAFF and the Fisheries Agency leaders think that Japan has the legal right to take whales for research and that it is obliged to process and use them after research under the ICRW. In fact, under Article 8 of the ICRW, member states are allowed to conduct whaling for purposes of scientific research without regulation by the IWC (Stedman 1990: 162).

Third, since whaling is under the jurisdiction of MAFF and the Fisheries Agency, the end of whaling could mean a decline in MAFF/Fisheries Agency's budget and political power. Given intense interministerial rivalries in Japan, it is not likely that especially MAFF would voluntarily concede one of its major areas of jurisdiction.

Fourth, MAFF and Fisheries Agency leaders want to keep the whaling industry alive in hope of resuming commercial whaling in the future. This could further strengthen the political power of the ministry and agency.

Fifth, MAFF and Fisheries officials fear that the ban on whaling will potentially have a spillover effect on the catching of other types of sea creatures under their domain. Japan has faced increased international pressure to regulate its fisheries activities,

especially those involving southern bluefish tuna.<sup>17</sup> In addition, MAFF and Fisheries officials claim that certain types of whales have rapidly increased in number in recent decades and that it is more sustainable to moderately hunt these whales than preserve them all. In their view, such a rapid increase represents a serious problem, since these whales eat so many fish that they could eventually destroy the ecological balance and threaten fishing industries (Morishita 2002).

Finally, as discussed above, MAFF and the Fisheries Agency's stance reflects the a broad societal view that Japan has had a long history of *gyoshuku-bunka* (whale eating culture) and that whales are a type of fish, and that there are no ethical differences between eating whale and eating beef or pork. Given these perceptions, MAFF and Fisheries Agency bureaucrats are offended by criticism from the West, especially the United States. They see Washington as the world's most powerful state insensitive to Japan's whaling needs and unjustifiably bullying Tokyo to comply with the anti-whaling norm.

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<sup>17</sup> In 1998, for example, Australia and New Zealand protested against Japan's unilateral experimental fishing for southern bluefin tuna by invoking formal dispute settlement procedures under the Convention for the Conservation of Southern Bluefin Tuna (known as the SBT Convention), an accord established in 1993 by the three states to manage depleting stock. Despite their protest, Japan continued its experimental fishing program. Australia and New Zealand then brought the case to the International Tribunal for the Law of the Sea (ITLOS), alleging that by undertaking experimental fishing Japan had failed to comply with its obligations under the United Nations Convention on the Law of the Sea (UNCLOS) in relation to the conservation and management of the southern bluefin tuna stock. ITLOS ordered that Japan refrain from conducting experimental fishing except with the agreement of these states. When Japan submitted its objection to ITLOS in 2000, an Arbitral Tribunal (pursuant to the UNCLOS) was convened to hear the case. The Tribunal then decided that it lacked jurisdiction to decide the merits of the dispute and revoked ITLOS's decision (The New Zealand Ministry of Foreign Affairs and Trade, 2002).

MAFF and the Fisheries Agency, however, are not homogenous. Tensions exist between those in charge of whaling and those who oversee fisheries. When the IWC passed the 1982 moratorium on commercial whaling, the Whaling Division of the Fisheries Agency spent several months trying to persuade the fisheries officials within the same agency to accept the Whaling Division's argument that Japan should file an objection to the moratorium. These whaling officials argued that accepting the moratorium could lead to the creation of more regulations of other fisheries regimes that would harm Japan's fisheries interest. Although the whaling officials finally gained consensus from the fisheries officials and filed an objection to the moratorium, they had to withdraw the objection soon afterwards. The whaling officials were pressured to do so by the fisheries officials in the Fisheries Agency and MAFF.<sup>18</sup> By then the United States had activated the Packwood-Magnuson Amendment to immediately ban all Japanese fisheries activities in the US EEZ. Since Japan's fishing interests are much more substantial than its whaling interests, the fisheries officials, supported by the private industry, won over the whaling officials (Wong 2001).

The Ministry of Foreign Affairs (MOFA), the other bureaucratic actor in the whaling issue, is involved neither in policy making nor implementation, but simply serves as the government's liaison with the outside world. MOFA (i.e., the Fisheries Division of the Economic Affairs Bureau within the ministry) represents Japan at the IWC (together with MAFF/Fisheries Agency), responds to foreign criticisms of Japan's scientific whaling program, and attempts to ease conflicts with anti-whaling states. MOFA takes a softer approach to whaling than does MAFF but defends the MAFF and

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<sup>18</sup> I thank an anonymous reviewer for pointing this out.

Fisheries Agency's position on whaling in the international arena. For example, it argues that, "certain NGOs and the media are spreading misinformation on this [whaling] issue to the public to provoke an emotional reaction against our activities which could make dialogue difficult" (MOFA 2002a) and contends that, "Japan's request for a catch of 50 minke whales in its coastal waters is justifiable" (MOFA 2002b). MOFA also emphasizes the legality of Japan's action (which, in its view, is in line with the ICRW) and stresses that Japan acts in harmony with the international community. MOFA's support for MAFF and its attempt to ease conflicts with other states reflect the ministry's internal politics. The ministry is divided on the whaling issue: The Ocean Division of the Economic Affairs Bureau within MOFA enthusiastically promotes the Fisheries Agency's whaling policies, while the North America Bureau is highly sensitive to the adverse impacts of Japan's pro-whaling position on US-Japan relations and is least supportive of whaling (for the stance of the North America Bureau, see Wong 2001).

However, MOFA's role in the field of whaling is curtailed by its lack of authority in policymaking and implementation. The ministry is a junior partner to MAFF in whaling matters. MOFA simply follows MAFF/Fisheries Agency's decisions and attempts to soften Japan's position to the outside world. Even though many MOFA officials, especially those in the North American Bureau, are often appalled by MAFF/Fisheries Agency's provocations at international meetings, MOFA lacks the domestic power on this issue to deter such positions.

Meanwhile, other than a few Diet representatives from small whaling villages, most Japanese politicians are uninvolved in whaling issues, leaving decision-making power in the hands of MAFF/Fisheries Agency officials. Japan's two largest parties, the

Liberal Democratic Party and the Democratic Party established pro-whaling legislative groups: the LDP's Parliamentary League in Support of Whaling and the Democratic Party's Parliamentary Council to Address Whaling Issues. Yet, these groups have not exercised strong influence over the policymaking process on the issue. As Wong (2001) points out, supporting whaling is peripheral for most politicians as their constituents are much more concerned with other issues. Meanwhile, there are virtually no legislators in Japan who support the anti-whaling cause. This is in contrast to the United States, where a number of influential members of congress have cooperated with environmental NGOs to actively oppose whaling (see Friedheim 2001).

Likewise, Japanese prime ministers are usually uninvolved in day-to-day decision making on whaling. They express their views only when whaling becomes an international political matter. In general, they are sensitive to international opinion and oppose whaling, but their views have little influence. For example, in the early 1980s, Prime Minister Yasuhiro Nakasone pressured the Fisheries Agency to accept the 1982 moratorium. Since Japan had accumulated soaring trade surpluses with the United States around that time, Nakasone wanted to avoid any other confrontations with Washington. Nakasone also openly opposed Japan's scientific whaling program, but his opposition was overridden by MAFF and the Fisheries Agency (Wong 2001). Thus, even prime ministers cannot pressure the bureaucratic agencies to conform to the anti-whaling norm.

The bureaucratic decision-making system also excludes societal pressure, even from the business sector. Contrary to the popular image that the Japanese private industry strongly influences state policy (Peterson 1992), its involvement in shaping whaling policy is very minor. The Japanese whaling industry has downsized substantially since

the 1970s and has almost no influence on decision making. Today, Kyodo Senpaku, a private fishing company with approximately 300 employees, is the only company engaged in scientific whaling. This firm, formerly known as Nippon Kyodo Hogeï, was created in the 1980s from a merger of the whaling operations of several Japanese fishing companies as the industry contracted in the 1970s. Kyodo Senpaku is officially commissioned by the government to hunt and study whales in collaboration with the semi-governmental Institute of Cetacean Research. After research is conducted, a few thousands tons of whale meat are sold to the Japanese government and the money generated from the sale is used to cover the cost of the research program. Then the government distributes the whale meat to Japanese local governments, which then passes it on to wholesale fish markets ('Japan—the Politics of Whaling' 2000). Although a close relationship exists between the governments (both central and regional), the research institute, and the fishing company in the scientific whaling program, the role of the whaling industry is limited. For example, even though Kyodo Senpaku requested that a scientific research program of 1200-1500 minke whales be established in the 1980s, the Fisheries Agency rejected its request and instead limited the quote to 300-400 minke whales per year (Wong 2001).

The only actors working inside Japan to oppose Tokyo's whaling policy are a handful of transnational and Japanese NGOs.<sup>19</sup> Yet, they have not successfully pressured

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<sup>19</sup> Japan's nonprofit sector is diverse. Some nonprofit organizations are pro-whaling and strongly support MAFF and the Fisheries Agency's stance on whaling (e.g., Japan Whaling Association, Japan Small-Type Whaling Association, Institute of Cetacean Research). Many of these groups are semi-governmental associations that are incorporated, receive government subsidies, and maintain close relations with government officials. They are not usually considered NGOs in Japan due to their lack of independence from the government (see Hirata 2002).

the bureaucracy. As explained above, this is partly because they lack strong public support for their anti-whaling campaigns due to cultural reasons. Their failure, however, also derives from the fact that they have not been able to establish working relations with the bureaucracy. They have found no common ground with MAFF and its Fisheries Agency in regards to whaling.

Japanese NGOs have recently gained political prominence in some environmental areas, as evidenced by their acquisition of legal status through the 1998 enactment of the “NPO [nonprofit organizations] Law” (formerly known as “the Law to Promote Specified Nonprofit Activities”). Prior to the establishment of the NPO Law, various regulatory requirements (e.g., specified financial assets, a lengthy approval process) prevented most nonprofit organizations from gaining legal status in Japan. The 1998 law eliminated the financial requirement and has simplified the approval process (Pekkanen 2000), allowing anti-whaling NGOs to acquire legal status (“NPO *hojin*” [NPO legal status]) for the first time (Greenpeace 2002).

There are a handful of Japanese NGOs involved in anti-whaling issues. The most active ones are the four members of the Whale Conservation Coalition of Japan, a network established in 2001 to mobilize public opinion against whaling in advance of the IWC annual meeting in 2002. These NGOs are the Dolphin and Whale Action Network, the International Fund for Animal Welfare (IFAW), Greenpeace Japan, and the Japan Whale Conservation Network. These NGOs organize small rallies, issue protest letters to Japanese representatives at the IWC, and promote public education through newsletters, Internet sites, symposia, and meetings (Whale Conservation Coalition of Japan 2002). However, they have had no serious impact on policy making on whaling as they are new,

their campaigns are as yet small, and they have not been taken seriously by the bureaucratic leaders. Apart from these NGOs, there are a few smaller domestic NGOs that embrace the anti-whaling cause, such as the Elsa Nature Conservancy, the Japan Wildlife Conservation Society, and the Kujira Mondai Network (Whale Problem Network). None of them, however, is influential in policy making (Wong 2001). Lacking access to the decision making structure and incapable of forming a “winning coalition” with influential policy makers, domestic NGOs have proved to be ineffectual in influencing Japanese whaling policy.

In other fields such as humanitarian aid, Japanese NGOs have had some success in collaborating with the bureaucracy, particularly with MOFA. NGO-MOFA cooperation has been made possible not only because of strong public support for NGOs involved in aid and development issues but also because of intense competition between ministries, rather than monopoly of one agency, in Japan’s official development aid (ODA). With multiple ministries (e.g., the Ministry of Finance, the Ministry of Economics and Industry) competing for budget and power in ODA, MOFA has welcomed cooperation with NGOs, since both the ministry and its NGO partners share an interest in increasing humanitarian assistance to the developing world. MOFA is eager to work with NGOs in humanitarian fields because NGOs enjoy strong public support for their activities, so, by cooperating with NGOs, MOFA can expand its domestic support base, which can help the ministry gain a larger share of the ODA budget. In turn, close relations with MOFA have allowed NGOs to influence Japan’s ODA policy as a whole (e.g., shifting emphasis from infrastructure to humanitarian aid) (Hirata 2002).

In the field of whaling, however, this type of close relations does not exist between NGOs and the bureaucracy. There is no bureaucratic competition in the area. There is no common interest between NGOs and the bureaucracy. Anti-whaling NGOs do not have a wide public support as development NGOs do, and the bureaucracy, especially MAFF, has no interest in working with them.

Transnational NGOs have proved to be ineffective in changing Japan's whaling policy, too. As mentioned above, they have failed to establish close working relations with local NGOs and have also failed to penetrate into the Japanese decision-making system. They work closely with American and European legislators in promoting the anti-whaling cause, but have not found sympathetic Japanese legislators who would represent their position.

As the decision-making mechanism is highly centralized with strong MAFF leadership, the ministry's preference and interests matter a great deal. In this top-down policy-making environment, what MAFF and the Fisheries Agency decide shapes Japan's policy. If the anti-whaling norm is to be empowered domestically, the ministry and agency have to embrace the new norm. Since they have no interest in changing their position, and since anti-whaling actors have failed to change MAFF and the Fisheries Agency's views or create a powerful enough social movement that would force the ministry's and agency's hand, the pro-whaling policy has continued.

## **Conclusion**

This paper has argued that system-level analyses are inadequate to explain Japan's whaling practice. Regime theory is not applicable to the Japanese whaling case since both neorealist and neoliberal institutionalist explanations fail to account for

Japan's policy, which is based on neither hegemonic pressure nor long-term material interests. Also, constructivists' explanations of norm diffusion is not useful either, because transnational activist networks have had little effect on Japan's whaling policy, and the social interaction of states (which includes peer pressure) has not led Japan to take a more conciliatory stance. In short, both regime theory and constructivism are useful for explaining general phenomena of norm diffusion at the systemic level but cannot specify exact mechanisms through which international norms reach or fail to reach the domestic level.

This paper asserts that domestic institutions matter in the process of norm compliance in two ways. First, the pre-existing cultural structure affects actors' willingness to comply with a norm. Prior societal ideas (e.g., that whales are a type of fish and that there is not much difference between eating whale meat and eating beef or pork) have hindered Japan's compliance with the anti-whaling norm. Domestic culture exerts a great pull on actor behavior. In an environment where there is little match between an international norm and domestic culture, policy leaders can take advantage of existing domestic ideas to arouse nationalism and create "us-versus-them" feelings. By doing so, they aggravate tensions between the domestic public and international norm advocates.

Second, the structure of political institutions also explains Japan's non-compliance policy. The decision-making process over whaling is highly centralized under the leadership of the bureaucracy, particularly that of MAFF and the Fisheries Agency. The bureaucracy is insulated from societal actors who in turn lack access points through which to affect policy change. Anti-whaling NGOs do not have any influence in policy making. Since MAFF and the Fisheries Agency have a virtual monopoly over

Japan's whaling policy, their organizational culture and politics (reflecting both the broad societal idea that whales are not different from fish and the organizational self-interest in preserving its ministerial jurisdiction) determine Japan's national policy.

In summary, I advocate a research design that pays closer attention to the linkage between international norms and domestic structures so that we will better understand in detail how and why norms diffuse, or fail to diffuse, domestically. Future research is needed to address specifically how domestic cultural and political structures influence norm diffusion. In particular, it is important to understand how to measure the degree of cultural normative fit and how to determine the type of domestic political structure through which given international norms travel.

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