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ARTICLES

Editor's Introduction

We are pleased to introduce the summer 2013 issue of *Asia Pacific Perspectives*. This issue brings together the voices of scholars from Canada, Australia, Britain, and Japan as it considers the interaction between the international and the local in East Asia today.

The first two articles examine the issue of human rights from different perspectives. **David Webster** looks at the struggle for independence in Timor-Leste in terms of local agency. He argues that a regional actor successfully appealed to the international community for support by using human rights norms as a leverage issue. **Silvia Croydon** analyzes the development of a concerted regional approach to the question of human rights in East and Southeast Asia. She finds that there are many challenges to the creation of a regional approach, but that progress is being made.

Looking at the recent tension surrounding maritime disputes in East Asia, **Mike Chia-Yu Huang** asks what drives China's increasingly "assertive" foreign policy. He argues that the number of actors in decision-making has led to inconsistent policy, and that this causes tension between domestic factions, neighboring states, and global powers. **Felicity Greenland** also addresses the conflict between local experiences and international norms, using research on traditional folk songs. She describes a rich and established cultural history of whaling in Japan, a legacy put under pressure by current global environmental concerns.

Finally, with this issue, *Asia Pacific Perspectives* introduces a new type of article, one we are calling "Think Piece." This new series will allow contributors to respond to current events and big ideas in the Asia-Pacific region in a shorter, more informal style that integrates personal opinion informed by scholarship and the author's expertise. We hope you will find value in our first "Think Piece" by **Pablo Figueroa** on the Fukushima nuclear-reactor situation in Japan.

Dayna Barnes, Managing Editor

John Nelson, Editor

Languages of Human Rights in Timor-Leste

David Webster, *Bishop's University*[1]

ABSTRACT

This paper examines the historical process by which Timorese embraced the language of human rights, and their transnational support networks as diffusion belts for "rights talk." It argues for a two-way understanding of rights diffusion, suggesting that Timorese framing of rights have contributed to a global shift towards a wider understanding of human rights as more than simply civil liberties in the Western tradition. Human rights, in other words, is a language that has served the Timorese independence cause, and in turn informed that cause.

KEYWORDS: *Timor-Leste, East Timor, human rights, Fretilin, National Council of Maubere Resistance, transnational social movements.*

Twenty years after the South Korean military regime gunned down pro-democracy protesters in the city of Kwangju, Timorese Catholic Bishop Carlos Ximenes Belo addressed a gathering in turn-of-the millennium, post-dictatorship Kwangju. Drawing parallels between the struggles of the Korean and Timorese peoples, he stressed the role of open information, of breaking silences. "It is a simple fact," he argued, "that when people have full access to information, they are in a position to not only make intelligent decisions, but also to act on behalf of their distant brothers and sisters around the world who are in need of help." What lever could move powerful governments? Belo's answer was that "civic organizations and individuals of good will around the world, acting in solidarity with the people of East Timor and Korea and other places, can have a huge impact on the way events transpire" (Belo, 2000).[2]

Belo's point underlines a major point in the Timorese experience: the centrality of human rights and the relevance of non-state transnational activist networks, to use Margaret Keck and Kathryn Sikkink's (1998) term. Timor-Leste (East Timor) was invaded and occupied by Indonesia from 1975 to 1999. It then achieved its independence as the result of a transnational campaign waged in alliance with solidarity groups overseas. The Timorese independence movement fought a battle on the terrain of human rights, against an Indonesian military regime that denied the universality of rights. In fighting that battle, Timorese activists embraced the language of rights and made it central to their emerging national identity. They also affected the way their overseas supporters talked about rights, with more space made for "solidarity rights" (about which, more below), in addition to the emphasis traditionally placed by these groups on civil liberties and freedom from torture and other forms of oppression (the distinction between human rights and civil liberties follows Clément, 2008).

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[1] This paper draws on material in David Webster, 2003. Further research was possible with assistance from a Kiriyama post-doctoral research fellowship at the University of San Francisco in 2008-09 and with the assistance of the Social Sciences and Humanities Research Council of Canada.

[2] While retaining the term East Timor in places, this essay follows current Timorese practice in preferring the Portuguese-language name, Timor-Leste.

Is the rhetoric of universal human rights a new imperialist discourse, rooted in the powerful West, as scholars such as Michael Aung-Thwin (2001-02) argue? Or does it offer liberating possibilities to movements rooted in the global South? The Timorese case points to the way a powerless movement used the language of human rights as a "weapon of the weak" and ultimately prevailed through this language (Scott, 1985). Timorese activists then incorporated human rights into their emergent identity. Timor-Leste emerged in the course of the struggle against Indonesian rule as a "notion-state" – not yet a nation on the ground, but one that was forming in the minds of its people. The language of human rights was part of this process; it also shaped the process. Early solidarity rights, such as the right to self-determination and development, were advanced from the global South and have transformed global understanding of the scope of rights. More recent solidarity rights can be said to include the right to water, to a clean environment, and to peace. Among these is a claimed right to indigenous cultural survival, driven by what some call the "Fourth World" of indigenous peoples. Timorese campaigning drew on earlier human rights and solidarity rights claims, and also played a role in advancing newer, Fourth World-inspired solidarity rights.

Timor-Leste is half an island located off the northern coast of Australia, amidst the Indonesian archipelago. It was for many years a Portuguese colony where neglect combined with periodic harsh efforts to exploit, and where co-operation and resistance to Portuguese rule were both present (for a history of Timor-Leste, see Gunn, 1999a; Dunn, 2003; Jolliffe, 1978; Taylor, 1999). The rise of independence movements in Portugal's African colonies put the last major colonial power on the defensive until its dictatorship fell in 1974, the result partly of strains from three colonial wars in Africa. This opening saw the creation of Timorese political parties, of which two were able to win substantial support: the Timorese Democratic Union (UDT) and the Revolutionary Front for an Independent East Timor (Fretilin). After UDT, a party led by Timorese elites, opted for a policy of continued links to Portugal, Fretilin formed to demand immediate independence, with a declaration signed by Francisco Xavier do Amaral but actually penned by young activists Mari Alkatiri and José Ramos Horta, both key political figures ever since (Ramos Horta, 1987; Nygaard-Christensen, 2012, pp. 493-8).

In 1975 UDT staged a coup attempt; Fretilin fought back and won. The short civil war of August 1975 saw Portuguese administrators depart, never to return. Fretilin eventually declared an independent Democratic Republic of Timor-Leste on November 28. Indonesian forces launched a full-scale invasion on December 7, re-colonizing the territory. The ensuing military occupation was a human rights catastrophe, with effects ranging from massacres and torture, to state-engineered famine, to displacement of indigenous peoples from their land. The Indonesian army ran the territory declared to be Indonesia's 27th province until 1999.

Timorese nationalists continued to fight. They opted at first to model themselves after "Third World" liberation movements. Over time, their movement reinvented itself using the language of human rights to propose a new national identity as a rights-respecting culture. The process saw Timorese forge alliances with other peoples seen as indigenous, using a new language of rights and indigeneity that was both instrumental and foundational to shifts in identity. A struggle took place on the ground in Timor-Leste and for international opinion, with this

latter possible because Ramos Horta and Alkatiri, among others, were outside Timor-Leste and able to carry on the fight through diplomatic means. Pressure mounted upon the Indonesian government. In 1999, the United Nations was able to organize a referendum, in which near-universal turnout saw a massive vote for independence. Despite a wave of violence unleashed by the Indonesian army, international pressure forced Indonesia to accept a UN peacekeeping presence and interim administration, which oversaw the restoration of an independent Democratic Republic of Timor-Leste in 2002. It was the first new state of the 21st century. Independent Timor-Leste has made human rights central to its identity claims.

There was not simply a one-way diffusion of "rights talk" from North to South (Ignatieff 2000; Foot 2000). Solidarity groups in Northern countries, church-based networks and other channels also began to embrace the "rights talk" generated by Timorese activists in the course of their own struggles. In this sense there has also been, through transnational movements, a diffusion of newer ideas of solidarity rights from South to North. Timorese independence movements embraced the language of human rights, but they were not simply passive recipients of ideas of rights generated elsewhere. They were also active participants in reshaping global understandings of the meaning of human rights.

This paper examines the historical process by which Timorese independence movements embraced the language of human rights, and their transnational support networks as diffusion belts for "rights talk." It argues for a two-way understanding of rights diffusion, suggesting that Timorese framing of rights have contributed to a global shift towards a wider understanding of human rights as more than simply civil liberties in the Western tradition. Human rights, in other words, is a language that has served the Timorese independence cause, and in turn informed that cause.

Timor-Leste: Liberation Movement Prototypes

Timorese nationalists were not sailing into uncharted waters in 1974: they had a vast range of previous independence movement examples to draw upon. They opted for a prototype that seemed to fit well in the "global 1970s": the Third World national liberation movement. This model was launched for instance in the Vietnamese and Indonesian revolutions in 1945. The latest wave by the 1970s was African movements against Portuguese or white-minority rule in Africa. Two factors made the national liberation movement model especially compelling to Timorese nationalists, both of them international. First, it offered access to United Nations system, which had opened the door to liberation movements including the Palestine Liberation Organization, African National Congress, South West Africa People's Organization, and others. Second, the language of liberation movements was Portuguese as much as any other. To Timorese whose mental maps centred on the "lusophone world" of the Portuguese empire, there was great appeal in the example of Mozambique and Angola, the writings of Guinea-Bissau nationalist leader Amilcar Cabral on revolution and Brazilian writer Paulo Freire on popular education and empowerment.

Third World national liberation movements used military force, but they had no illusions, in most cases, that they could defeat European colonial powers on the battlefield alone and unaided. Self-reliance was for the future; winning inde-

pendence would need international solidarity. Therefore, independence struggles would have to be waged on both the domestic and international levels. After Indonesian nationalists declared their country's independence in 1945, for instance, they took an explicit decision to combine *perjuangan* (struggle) with *diplomasi* (to use the Indonesian spelling). So too did the Vietnamese independence movement and later the National Liberation Front of South Vietnam. This became standard practice for the national liberation movements that followed.

From Timor-Leste, Fretilin would walk that path as well. As its name suggests, Fretilin was formed in the image of the Mozambique Liberation Front (Frelimo). Frelimo developed the synthesis of struggle and diplomacy to new heights. In founding president Eduardo Mondlane's words: "Our struggle, apart from being a just struggle located in Mozambique, is at the same time an international struggle" (Frelimo communiqué, 1974, cited in Venter, 1975, p. 387). Crucially, Frelimo asserted a status as the "sole representative of the Mozambican people," the one over-arching liberation movement for Mozambique. It won that recognition first from the independence movements in the other Portuguese African colonies, then at the Organization for African Unity, and finally at the UN. The diplomatic struggle imposed a need for internal unity in order to sustain the "sole representative" claim, vital to maintain international support. The character of its supporters, from the USSR to China to Tanzania, helped shape the character of Frelimo as a Marxist-inspired party and remove any calls for a multi-party independence movement. In other words, international imperatives shaped the character of Mozambique's independence movement – and thus of emergent Mozambican identity.

Portugal was a Cold War ally of the United States and Western Europe, a reliable member of the North Atlantic Treaty Organization and a valued strategic partner. Thus NATO governments were reluctant to push its dictatorship too hard on decolonization issues. Frelimo therefore looked for support to Western civil society: churches, trade unions, and a dedicated solidarity movement of committees formed to oppose Portuguese colonialism. Frelimo's ideology was very much "Third Worldist." That is, it stood on the left, but looked not to Soviet examples but to a wider "Third World project" of liberation, a project that was inherently global in nature (on the "Third World project," see Prashad, 2007).

Fretilin embraced this inherited model, which seemed to signal the path to international success in the 1970s context. Under lobbying by Mari Alkatiri, Frelimo endorsed Fretilin as the "sole representative" of the Timorese people, ignoring other parties such as the UDT. Fretilin in turn reinvented itself from a social democratic party in the Swedish mold, to one that looked to Third World examples and inspiration. Thus its philosophy by 1975 was Third-Worldist nationalism and a commitment to agrarian development and the principles of self-reliance, a good fit with global fashions of the day.

This won some international support, but lost other potential backing, including the goodwill of neighboring Indonesia. From 1945 to 1965, Indonesia under president Sukarno was a Third World pioneer, host of the seminal African-Asian conference held in Bandung in 1955, and a leader in the Non-Aligned Movement. After Sukarno's fall in 1965, a pro-Western modernizing government under General Suharto took power. His government's attitude towards Third

Worldism was ambiguous at best. Indonesia's foreign minister was initially willing to declare that "independence is the right of every nation, with no exception for the people of Timor." But Indonesian attitudes shifted as Fretilin became more and more like the Frelimo model. Indonesian leaders framed the issue not in Third Worldist terms, but in the language of the Cold War. They pointed to communist Vietnam as the major security threat to Indonesia, muttering to Western defence attaches that they feared "another Cuba" on their borders (Adam Malik, 1975, pers. comm. to J. Ramos Horta, June 17; Canadian Embassy Jakarta, 1978). In 1975, Indonesian president Suharto approved an invasion. His job was then to gain the support of major governments to take over what was still Portuguese territory and convince them to back Indonesian efforts to abort a decolonization process. He told U.S. president Gerald Ford: "Indonesia doesn't want to insert herself into Timor self-determination, but the problem is how to manage the self-determination process [so that] a majority want unity with Indonesia" (Simpson, 1975). Ten days after Fretilin leaders declared independence in 1975, Indonesian forces invaded in force.

Fretilin diplomacy, initially attempted in the name of the short-lived Democratic Republic of Timor-Leste, attempted to follow the Frelimo model of a classical Third World liberation movement, claiming to speak as "the sole representative of the East Timorese people" and dismissing other parties as "colonial puppets." The United Nations General Assembly called on Indonesian troops to leave East Timor each year from 1975 to 1982, but each year the margin dwindled. Most Western governments initially abstained, then, one by one, they began to vote with Indonesia. The logic of supporting a pro-Western government in resource-rich Indonesia underpinned a feeling that there was no point in supporting a hopeless cause. Thus, president Jimmy Carter's "human rights administration" in the United States concentrated on the treatment of political prisoners arrested when Suharto seized power. State Department reports on human rights in Indonesia concentrated on the prisoners issue. U.S. arms supplies to Indonesia, meanwhile, increased and were used to turn the military tide against Timorese guerrillas through aerial bombing (U.S. House, 1977; Glasius, 1999; Simpson, 2005).

Fretilin had embraced the Third World liberation movement model in response to international factors. It was a "derivative discourse" inspired by foreign models (Chatterjee, 1986). The model however did not work well in the Timorese case. While Fretilin claimed to be the sole representative of the Timorese people and made a claim to the right to self-determination, this was ignored. Among Western governments, only Australia proved willing to endorse Indonesian rule in de jure terms. But all other Western, Asian and Soviet-bloc governments offered de facto acceptance of Indonesian rule. Only some African governments and, for a time, China accepted the liberation-movement claim to a right to self-determination that could actually be realized.

Reinvention: The Language of Human Rights in Timor-Leste

In the effective and creative use of non-state diplomatic tools, Timor-Leste offered a model of how to use "weapons of the weak" to win a struggle on the terrain of diplomacy that it could never win on the battlefield. This model saw Timorese

nationalists use such advantages as they had to build upon inherited anti-colonial liberation movement models. They forged a sense of Timorese identity and unity based upon shared suffering and shared resistance to Indonesian rule. They drew upon Catholic-inspired themes of redemption through suffering and upon a developing language of universal human rights to build up a transnational solidarity movement. Finally, they used these tools to disrupt the Indonesian government's international support network enough that, when a "window of opportunity" came in 1999, Indonesia's strongest supporters sided against it.

Fretilin's cause overseas had been harmed by two factors: the appearance of disunity, and a blackout on news from Timor-Leste. As a result, Fretilin had to adapt the liberation movement model in ways that changed the identity of the resistance movement inside Timor-Leste. Internally, a Revolutionary Council of National Resistance (renamed the National Council of Maubere Resistance in 1987) was formed under Xanana Gusmão, one of the few Fretilin leaders left alive inside East Timor. In Xanana's words, leftist ideology was to be replaced by "a common feeling – that of national identity" (Niner, 2001, p. 20). The new theme was no longer Fretilin as the "sole representative," but an effort to build coalitions. This was a major step back, taken for tactical reasons. Yet it led to a new theme in Timorese nationalist rhetoric: the unity of the whole nation against Indonesian occupation.

Fretilin also moved to a new "three fronts" strategy aimed at ending the silence imposed by the territory's status as a closed military zone. The first front was the guerrilla resistance, by this point mostly symbolic. The second was diplomatic. Joining them was a "clandestine front" of non-violent young activists in Indonesian-controlled areas. These "estafeta" (messengers) were able to maintain communications between guerrillas and the outside, and to report on the human rights situation. This marked a real breakthrough, linking the military and diplomatic fronts and revitalizing both. In Xanana's oft-repeated slogan, to resist was to win, by demonstrating to the world that struggle went on.

This was a performance on three stages. The guerillas performed resistance, with the charismatic figure of Xanana, who was replaceable if necessary, in the leading role. The clandestine front made sure their actions were known and supported for a domestic audience. The diplomatic front took the performance to an international audience, shaping it to appeal to each audience. And in turn, the process boomeranged back into Timor-Leste. The diplomatic front could mobilize messages of support from overseas, pass them to clandestine activists, and see them carried back to the guerrillas.

All this required breaking silences. Timor-Leste was closed, with human rights monitors, tourists and even the Red Cross refused entry. Into this came the new flow of information carried by the clandestine front. This inspired the creation of overseas support groups motivated by the reports of human rights violations. Each group then circulated information itself through civil society networks, local and national media, the internet and newsletters like the *Estafeta* (published by the East Timor Action Network/U.S. and named for the clandestine front's messengers). A network of Parliamentarians for East Timor formed in Portugal, Britain, Canada, Japan and other countries. Dedicated East Timor solidarity groups sprung up in several countries, linked in a loose International

Federation for East Timor with offices in Kyoto and New York. Fretilin was isolated among states, but it was gaining new support within international civil society. Each Timor solidarity group made human rights central to their lobbying efforts.

Ever-greater Timorese emphasis on "suffering" mobilized outside support in two ways: through transnational Catholic church movements, and through identification with the rising stress on human rights around the world. Unity and human rights were central. Xanana resigned from Fretilin and announced that the guerrillas were no longer Fretilin's army, but the forces of the whole people. "Now," he declared, "my political philosophy is only the liberation of my country" (Domm, 1990, p. 8). With this statement, the language of anti-colonial nationalism fashionable in the 1970s gave way to nationalist language more attuned to the global currents of the 1980s, without dropping the stress on Third Worldist imagery. In Catholic terms – and those were important terms what was by then a majority-Catholic country – Fretilin repented in the 1980s; it purged the elements of disunity that held the nation back from achieving its independence.

Similar flexibility was on display in a series of peace plans advanced in the late 1980s and early 1990s designed to appeal to international political opinion and to show what Ramos Horta, named as Xanana's chief overseas representative, called "the sense of responsibility, maturity, and moderation of the East Timorese resistance leaders" (Ramos Horta, 1996). Each of these words was coded to appeal to Ramos Horta's target audience: decision makers in Western capitals. For it was there that power lay. Third Worldism by the 1980s was losing ground. Third Worldist imagery and language were no longer assets, so Ramos Horta and other Timorese diplomats dropped them. None of this surrendered the Timorese claim to independent nationhood. Bishop Belo wrote to the UN Secretary General on February 6, 1989 calling for a referendum. "We are dying as a people and as a nation," he wrote, taking Timor-Leste's "nation" status as a given. The letter added a decisive new factor, showing the Timorese church to be on the side of self-determination and instantly making a referendum the top demand of Timorese activists (letter appears in Gunn, 1999b, p. 138; see also Kohen, 1999).

Timor-Leste underwent a profound religious transformation under Indonesian rule. When Indonesia invaded, Catholicism was the religion of Portuguese-speaking elites. This changed under Indonesian military rule, however. In 1975, some Portuguese priests fled, but others – and the Timorese priests – remained with the people and shared their experience. This led to an identification of church and people: some 80% of the Timorese people became Catholics. Xanana insisted in a secret letter to one Timorese priest that the church's "prophetic mission … is to support the people in their struggle for liberation" (Gusmão, 1987a). By the 1980s, church leaders who witnessed massive human rights violations had come to agree. Seeing suffering, a highly conservative church was drawn into political involvement. The church became the only national institution free of Indonesian military control, offering a space for dissent, a shield against reprisals and an affirmation of Timorese identity. As Bishop Belo said: "The Catholic faith of the people is a kind of symbol to unite them, it is a way of expressing the fact that they are Timorese" (Canada Asia Working Group, 1993). There were parallels here to the role of the church in other countries, such as the Polish Catholic

church's leadership in resistance to communist rule (Manuel, Reardon & Wilcox, 2006).

Even with a Polish Pope, however, Vatican policymakers felt compelled to balance the needs of the Timorese and Indonesian churches. The Papal nuncio in Jakarta dismissed Bishop Belo's UN letter as personal and unrepresentative of the church; the chair of the Indonesian Conference of Catholic Bishops urged "the wisdom of silence" (Federer, n.d., p. 31; Smythe, 2004, pp. 60-1). Asian bishops sympathized on human rights grounds but preferred silence. The first words of "solidarity" from the Indonesian bishops conference came in 1983, but the bishops cited "Indonesian-style prophetic action" as requiring avoidance of any sort of confrontation or criticism of the government. On the other hand, church support from overseas continued to grow. An international Christian Consultation on Timor-Leste began in 1985. The same year, the (U.S.) National Conference of Catholic Bishops declared: "We need to break down the walls of silence." This picked up on the message carefully and quietly conveyed to them by Timorese church counterparts. As Bishop Belo said in his Kwangju speech: "the vast majority of what took place in silence, and the people suffered the consequences: more than 200,000 East Timorese or one third of our small population, died as a consequence of the Indonesian occupation" (Belo, 2000).

Similar statements came from bishops' conferences in other countries. This was linked to a global awareness-raising campaign on Timor-Leste coordinated by Amnesty International, which also struck notes of bearing witness and breaking silence. Churches, of course, do not dictate policy to their governments, but they seem to have played a significant quiet lobbying role. The example of a Timorese church standing with the people, quietly but firmly, had strong global resonance. Its example diffused to the West and ultimately back even into Indonesian churches.

In international discourse on Timor-Leste, the church-inspired message of human rights and deliverance from suffering began to displace the voice of the guerrilla-inspired language of liberation from colonialism. The message of suffering was also carried increasingly by the clandestine front, which tried to appeal to international opinion through a series of highly visible, non-violent protests, beginning with a visit by Pope John Paul II and culminating in a protest march in 1991 on which Indonesian troops opened fire. This "Santa Cruz massacre" was not unusual, but Indonesian soldiers made a serious mistake: they killed a New Zealand citizen, and beat an American reporter. Most importantly, a British reporter filmed it all. It was no accident that the massacre was filmed: clandestine activists made sure the cameraman was there and then helped him smuggle out the film that was then broadcast around the world. Images of suffering and resistance mingled in the media coverage, as Timor-Leste became for the first time a world news story.

Timor-Leste in Pacific NGO Rights Networks

The 1990s saw Timor-Leste emerge as a world issue, and as a real issue within Asia for the first time. The Timorese case was tied up with global debates over the meaning and extent of human rights. Timorese nationalists grabbed media spotlights and reinvented the models they had inherited in ways that appealed to

public opinion in the countries that were Indonesia's key backers. Asian backing was vital to Indonesia's ability to control the agenda, since it both provided vital diplomatic solidarity and made it tougher for governments outside the region to oppose. The issue intertwined with the larger question of the universality of human rights, as Indonesia joined Malaysia, China and others in preaching "Asian values" through the 1990s. Timorese voices were prominent among the Asian non-governmental chorus that refused to sing from their governments' "Asian values" song books.

Crucially, Japanese Catholic bishops made their first statement as a group. The Japanese bishops had up to this point tended to avoid strong stances, feeling like Christians in much of Asia that as a vulnerable minority they should not rock the boat. (In other words, "Indonesian style prophetic action" was a pan-Asian phenomenon.) Japanese bishops would acknowledge this later, invoking themes of repentance:

> We know enough about the East Timor issue to recognize that we, the people who are part of the "international community," bear much of the blame for the present situation. Today the armed militias believe they can perpetrate violence against the defenseless population with impunity because they have seen how slow the international community has been to condemn the violence perpetrated by the Indonesian military over the past twenty-three years. Our country, Japan, is particularly culpable. Not only did our troops occupy your land during World War Two, but after the invasion by Indonesia, our country continued as the biggest donor of economic assistance to Indonesia, thus enabling, albeit indirectly, Indonesia to carry out its cruel occupation of your land (Catholic Bishops of Japan, 1999).

Rights claims asserted from within Timor-Leste and preached by the Timorese diplomatic front and Timorese priests were being transmitted through the "conveyor belt" of the church-based solidarity movement and causing change in other countries. Bishop Aloysius Soma played an especially important role, speaking at the first Asia Pacific Conference on East Timor in 1994 (a country-specific manifestation of the Asian rights network) of the "long, terrible road of suffering" walked by the Timorese. A settlement, he said, could not be left to governments since they "have as their primary concern selfish goals that they refer to as their 'national interest,' goals which have little to do with justice, peace or love for one's fellow human beings." This assertion of a duty to independent foreign policymaking signaled the increasing influence on the Timor-Leste issue exerted by non-governmental organizations, including transnational church-based networks. At the same meeting, Cardinal Jaime Sin drew parallels with the role of the Philippine church during the years of the Marcos dictatorship. "Our faith tells us that it is Christ who suffers everytime human rights are trampled upon," he wrote in a letter to Bishop Belo (Sin, 1986; Soma & Sin, 1994).

Xanana had pledged allegiance to "complete respect for universal Human Rights" starting in 1987, but up to that time rights had been just one of several melodies in the Timorese liberation song (Gusmão, 1987b). The Santa Cruz massacre solidified human rights as the dominant melody. Timorese diplomats increasingly embraced human rights as part of the identity they promised for their future independent state. Ramos Horta declared that "human rights transcend boundaries and prevail over state sovereignty" (Ramos Horta, 1996, p. 22). Not by chance, this was the precise opposite of the Indonesian government's position on the rights debates of the 1990s. Ramos Horta forged links with Aung San Suu Kyi's National League for Democracy in Burma, and with the Tibetan

government-in-exile. He even drafted the independence movement's peace plan while staying in the Dalai Lama's capital at Dharamsala, India.

Timor-Leste also joined the Unrepresented Nations and Peoples Organization, an alternative UN for nations without states of their own, making common cause not only with exiled governments of Estonia, Eritrea and so on that now have their own states, but also on the basis of equality with other movements trying to separate from Indonesia and with indigenous peoples from around the world.

Again, this 1990s movement was both responsive to global currents, and a contributing part of a wider shift. Ideas of indigenous cultural survival and indigenous sovereignty were increasingly prominent internationally in the 1990s. Timorese nationalists joined this shift by embracing new languages of indigeneity, but these were not invented from whole cloth. Timorese indigenous cultures had been a major marker of difference from Indonesia for some years. Timorese foregrounding of this aspect was part of a global shift in which more and more was heard of a "Fourth World" that, unlike the Third World, had not yet been decolonized. Timorese diplomats deployed the language of Fourth World indigeneity, without surrendering their great asset of being recognized as a former colony not yet decolonized. This decision also altered the way Timorese identity was expressed at home. No longer was there any talk of the need to nation-build through uniformity – in the words of Frelimo's Eduardo Mondlane, "to die a tribe and be born a nation" (Mondlane, 1983). The new conception of Timorese identity embraced talk of diversity and the struggles of "tribal peoples." This went so far that Canadian photographer Elaine Briere's images of Timorese "hill tribe" women could adorn the cover of *Cultural Survival Quarterly* to illustrate a special issue on the indigenous peoples of Burma. Global indigeneity was being read across borders.

All this built support in the West and Asia, with Timor-Leste holding an honored space in Pacific civil society gatherings. José Ramos Horta especially had a central place in these networks. He was often a speaker at gatherings; Timorese resistance to a leading authoritarian state in the constellation of Asian dictatorships served as an inspiration to activists elsewhere; and many Asian activists took part in Ramos Horta's Diplomacy Training School for marginalized peoples based in Sydney. As the Asia Pacific Economic Cooperation (APEC) annual summits became a focal point for economic integration and growth-centred denials of rights both civil and economic, Timorese activists made the summits a focal point for dissent as well, by occupying the American embassy in Jakarta for the duration of the 1994 APEC summit. Timorese activism was close to pan-regional activism at APEC summits thereafter, and Ramos Horta was the selected keynote speaker for the APEC "people's summit" in Vancouver in 1997.

There are often suggestions that the end of the Cold War in 1991 was the decisive factor in shifting government policies, as Indonesia's importance in strategic terms vanished. That is not backed up by the evidence, which shows soaring aid, trade and investment in Indonesia. The end of the Cold War may have reduced ITS strategic importance, but Indonesia remained a high-growth economy open to foreign investment. The fashionable thinking of the day was that "soft authoritarian" governments were delivering an "economic miracle" in eastern Asia, and that growth would eventually bring about democratization (for example, see Morley, 1993). So, little change was evident in the attitudes towards

Indonesia displayed by major governments. Timorese diplomats still had to use "diplomacy from below," that is, through solidarity groups pressuring their own governments. Again, this reinforced the centrality of human rights languages in the independence movement, a development that in turn reinforced the centrality of rights in emergent Timorese identity.

A major unintended consequence of the "Asian values" push led by the governments of China, Malaysia, Singapore and Indonesia was the rise of a network of Asian human rights groups. Civil society organizations were not new to the region, but the "Asian values" assault prompted them to place human rights at the centre of their own languages, and to merge the language of rights with the language of development, environment and international solidarity. The preparatory meetings for the 1993 World Conference on Human Rights included one in each region. With Asia the only continent with no regional rights mechanisms, the Bangkok preparatory conference was expected to be a rallying call for the "Asian values" school, a continent-wide rejection of the universality of human rights, and a defence of cultural relativism. So it was, if government declaration issued in Bangkok is the only document read. Yet an unexpected (though carefully planned) gathering of Asian human rights organizations produced a remarkable counter-declaration that asserted the universality of rights and the importance of broadening understandings of rights to take in solidarity rights. The Bangkok NGO declaration rejected any claim that "Asian values" could over-ride any aspect of the universality of human rights. It also rejected the notion that human rights were Western in origin and should only be understood in a Western sense. Asia, it argued, had much to teach on human rights, not only things to learn. This declaration did much to influence the language and concepts deployed by Western NGO partners across the Pacific. It created a third position in the polarized debate over "Asian values," rejecting Asian government claims that national sovereignty came first, but also insisting a holistic approach that stressed "solidarity rights." This rejected the emphasis of civil liberties emphasis used by NATO governments in the period of post-Cold War triumphalism, and it also served as a useful corrective to NGOs in the North. One call, for instance, was on Northern NGOs "to use the democratic space available in their societies to increase public awareness of how Northern control and domination of the international system curbs and curtails the basic rights of people in Asia" (Bangkok NGO Declaration, 1993).

The last phase in the Timorese independence campaign opened in 1996 with the award of the Nobel Peace Prize to Belo and Ramos Horta. The Nobel was no surprise – solidarity groups had been pushing for it since 1993, when legislators in Japan and the United States nominated Belo. The Nobel committee's decision to name Ramos Horta as co-laureate aimed to amplify an outspoken voice in the diplomatic front, in order to complement Belo's quieter advocacy from inside. The pair had very different styles and operated in very different contexts without much direct contact, but their work was still complementary. Timorese activists saw the Nobel as a validation of the resistance and of its diplomatic strategy.

With the peace prize as a wedge to open doors once closed to him, Ramos Horta was able to turn to diplomacy from above in Western capitals. New diplomatic lines were on display at the UN Commission on Human Rights in 1997. This time, a resolution on Timor-Leste was sponsored by the European Union, Canada, Norway and Iceland as well as the faithful supporters like Mozambique.

Most Asian members stood in opposition, as did former Timor-Leste support-ers China, Cuba and Zimbabwe (a group Human Rights Watch dubbed "the abusers club"). This was the logical result of the shift towards the language of human rights, though Western sponsors were careful to point out that they were not advocating self-determination. Making common cause with Tibetans and so on had lost the support of China, but Timorese diplomats were willing to take that risk in order to win the support of Europe and ultimately the United States. Diplomats accustomed to working in partnership with Indonesia lamented the unwelcome influence of public opinion. Canada's ambassador to Indonesia, for instance, complained bitterly that his government seemed "prepared to have our NGO community dictate our actions" on Timor-Leste (Canadian Embassy Ja-karta, 1995). Public opinion made continued support for Indonesia more difficult.

Inroads were even evident inside Indonesia, where Timorese university stu-dents began to stage successful bids to win support from within Indonesian civil society by making common cause with the growing pro-democracy movement. The democracy movement in Indonesia did not give universal support to the Ti-morese cause, but Timor-Leste served as an inspirational example of resistance to the Suharto regime for many Indonesian activists. Indonesian soldiers captured Xanana and put him in an Indonesian jail, but that just gave him access to Indo-nesian dissidents. Xanana became a bit of a folk hero, his image disseminated on posters like that of Che Guevara. With some success, he was painted as "Timor-Leste's Nelson Mandela," a political prisoner with higher moral stature than his captors.

The fall of Suharto in 1998 saw his successor offer a referendum on inde-pendence to the Timorese. When they opted overwhelmingly for independence, pro-Indonesia militias unleashed a wave of planned violence. Amidst the vio-lence, the Security Council sent a special delegation to Jakarta, led by Namibia's UN ambassador Martin Andjaba, a former non-state diplomat for the SWAPO liberation movement who had little time for the dissimulations of the Indonesian military leadership (Martin, 2001, p. 105; Taylor, 1999, pp. xxx-xxxi). September 1999, the month of greatest post-ballot violence, was also the scheduled date for the annual APEC summit. The Asian members of APEC had long resisted any discussion of political issues within the forum, leaving the official APEC agenda entirely focused on economic issues. In the run-up to the 1999 summit in New Zealand, Canadian foreign minister Lloyd Axworthy managed to con-vince almost all APEC members to attend a sideline meeting on Timor-Leste that discussed possible sanctions on Indonesia. "We have basically taken over the agenda of APEC which is an economic organization to deal with this political security issue," Axworthy said, adding that "we are not taking no for an answer" from Jakarta (Axworthy, 1999). This marked the defection of Indonesia's reliable Asian support bloc, and left it isolated internationally.

The 1999 telling of the Timor-Leste story in terms of courageous underdog against regional bully did not spring unformed from nowhere. It was possible because of 24 years of Timorese public diplomacy, which provided the basic ingredients for the tone of 1999 press reports. A decade later, massive Sri Lankan military operations and bombarding of civilians as part of a campaign to wipe out the Liberation Tigers of Tamil Eelam would be plotted very differently, in a far more contested fashion. The new pressures on Indonesia were possible due to the foundation built by Timorese activists and their transnational support

network. Timor-Leste took over the front pages for two weeks in September 1999, all around the world. Ian Martin, who headed the UN mission in Timor-Leste, identifies as important pressures: a "highly effective" non-governmental support movement going "into overdrive" in 1999; the voice of the Catholic church; and "extraordinarily intense" media coverage (Martin, 2001, p. 106).

Human Rights as Identity

Languages of human rights have spread more generally, of course. It has become common to cast arguments in "rights talk" (Ignatieff, 2000; 2003). Rights mechanisms within the international system are constantly being rejigged. The international human rights regime asserts, in essence, that rights should limit state sovereignty, an argument asserted in the Universal Declaration of Human Rights in ways that, according to John Humphrey, have made the UDHR part of "customary international law" (Humphrey, 1984, p. 65). Rights were endorsed, or more properly re-endorsed, as "universal and indivisible" at the 1993 Vienna World Conference on Human Rights, and membership on the revamped UN Human Rights Council is theoretically conditional on a government's human rights record, with all members subject to a Universal Periodic Review of their records by other governments. The change is normative, with the periodic review process pro forma rather than substantive. But words matter. Even purely rhetorical commitments by governments create space that can be used by non-governmental rights groups to press for actual change. An example is provided by the 1970s Helsinki accords in Europe, in which the Soviet bloc made pro-forma promises to respect human rights which were then cited by domestic human rights activists to make rights claims within the USSR and Eastern Europe (Thomas, 1999; Chilton, 1995). Some scholars argue that enmeshing rights-violating states in a web of international norms and commitments can help diffuse the values of human rights. This case has been made most strongly with respect to the People's Republic of China – no exemplar of either civil-political or economic rights, but, it is argued, one that has improved its performance as a result of integration into global networks (though it may be China that has changed the international regime more than the regime has changed China) (Foot, 2000; Kent, 1999; Ming, 2001). The unspoken assumption is that human rights are to be diffused from North to South, from the more developed European, North American or Australian governments to recipients in Asia, the Middle East, or Latin America.

Diffusion needs to be seen as a two-way process, and it needs to be seen as a partly non-governmental process. Western NGOs, it seems clear, listened to Asian counterparts in the 1990s debates on the meaning of human rights. The embrace of solidarity rights by NGOs in the developed world is an example of South to North diffusion. Southern examples seem to have inspired Northern activists, for example, to take up campaigns for the right to water (for instance, see Barlow & Clarke, 2002). Diffusion of human rights is not a lobster pot that allows movement in one direction only. It is a two-way process, and the Timor-Leste case illustrates this two-way diffusion. Solidarity groups in Northern countries, church-based networks and other channels began to embrace the "rights talk" generated by Timorese activists in the course of their own struggles. In this sense there has also been, through transnational movements, a diffusion of newer ideas of solidarity rights from South to North.

Similarly, rights diffusion travels disproportionally through non-governmental channels. NGO actors in the process of democratization in Taiwan made human rights central to a new Taiwanese national identity. Such organizations as World United Formosans for Independence argued for a declaration of independence from China. They also argued for a democratization of the Republic of China government that ruled the island of Taiwan and claimed to be the rightful ruler of all China. The causes of independence, democratization, human rights, indigenous rights and environmentalism intermingled in the Taiwanese democracy movement. Once the government accepted the need to democratize, human rights became central to the Taiwanese identity, both because of the shape of the democracy struggle and because human rights could stand as a marker of difference from mainland China. Taiwan has seen the value in non-state diplomacy ever since then (Shih, 1999, pp. 144-64; Yang & Tedards, n.d.)

Respect for human rights has also become central to Timorese identity. This process began during the independence struggle, as activists sought to counter Indonesian claims about "territorial integrity" and "Asian values" with claims to the collective right to self-determination as a people, and a rejection of cultural relativism. Timorese diplomats, shortly after independence, were already boasting of their new country's ratification of all existing UN human rights instruments. This is a claim that cannot be made by most states that don the mantle of human rights promotion and "democracy assistance." Timor-Leste made headlines in 2011 when it entered the lists against Iran for a seat on the governing board of UN Women. Western media reports framed this as an American and Australian government win over Iran. But this ignored Timorese agency. As Timorese voices confirm, Timor-Leste sought a seat in order to take part in global debates on the rights of women, including by sharing its own experiences.

In other words, Timorese figures saw themselves as able to offer, not just take, lessons on human rights. The Timorese independence struggle demonstrates how the language of human rights took centre stage for a Southern movement. After independence, too, Timorese are using the language of human rights. A universalizing discourse it may well be, but it is also one that can be deployed by social movements rooted in the global South as a prime asset. Human rights languages need not be a club used by strong developed states; they are just as much a weapon of the weak.

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Two Rights Paths: East Asia's Emerging Regional Human Rights Framework

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ABSTRACT

Until recently, a notable aspect of East Asia was its lack of a regional human rights mechanism. Two regional human rights initiatives towards providing the region with such are now been undertaken – an inter-governmental level one by the Association of Southeast Asian Nations, and one based on a network of domestic commissions by the Asia Pacific Forum of National Human Rights Institutions. This article surveys the evolution of these two initiatives, and considers them in the context of the enduring "Asian values" debate. It argues that even though there are shortcomings to both initiatives, their mutually propelling development improves the prospects for a human rights mechanism in the region.

KEYWORDS: *East Asia; human rights; regional human rights mechanisms; Association of Southeast Asian Nations; Asia Pacific Forum of National Human Rights Institutions*

In 1962, on the fourteenth anniversary of the proclamation of the Universal Declaration of Human Rights (UDHR), the Third United Nations (UN) Secretary-General U Thant of Burma reported with satisfaction with regards to the UDHR that "[t]he world has come to a clear realisation of the fact that freedom, justice and world peace can only be assured through the international promotion and protection of [the] rights and freedoms [this document describes]". This widespread acceptance of the UDHR, persists today, making it the most authoritative document on human rights to date. With its 30 articles enlisting rights as diverse as those of holding a nationality, seeking asylum, enjoying equality before the law, owning property, marrying, belonging to an association, and having free choice of employment, social security and adequate health care, the UDHR continues to be the most cited and relied upon document in discussions about human rights. As it stands, however, the declaration does not offer even a word of advice on how all these rights are to be balanced against one another, which means that there is room for interpretation in their implementation.

This paper joins the body of literature on human rights, and in particular the work that treats the topic of divergent human rights implementation paths. It seeks evidence of culturally sensitive human rights implementation in the region of East Asia, which is, significantly, from where the boldest claims about such divergence have emanated. The paper focuses on regional human rights mechanisms (RHRMs) as the possible place where the East Asian cultural distinctiveness in human rights implementation could be manifested. After a brief introduction of the relevant theoretical debates and the situation hitherto with regards to RHRMs in East Asia, an assessment is offered of two recent initiatives for installing such a mechanism as an example of culturally sensitive human rights implementation.

Background

The issue of balancing rights became contentious in the international arena in the early 1990s. This debate was triggered by the frustration of some East Asian leaders with the criticism of Western governments with regard to local human rights practices at a time when these countries were making leaps towards economic prosperity. More specifically, it was the Singaporean and the Malaysian Prime Ministers Lee Kuan Yew and Mahathir bin Mohamad, that started this debate. Seeing the condemnations from the West of the local human rights record as a stratagem aimed at stifling the region's progress towards prosperity, Lee and Mahathir accused the Western critics of practicing a new, cultural, form of imperialism. They argued that Western governments are putting too much emphasis on civil and political rights, to the neglect of economic, social and cultural rights. In their view, in Asia, where the majority of the population lived in poverty, the more urgent necessity – and one on which many of the governments there were unquestionably delivering at the time – was for citizens to be provided with economic security and social stability. Once these more pressing needs were met, they asserted, advancements in the protection and promotion of civil and political rights would naturally follow.

Lee and Mahathir's rhetoric quickly gained popularity amongst other elites in Asia. In the run up to the 1993 World Conference on Human Rights, the world saw the ministers of 30 Asian states sign a joint declaration in Bangkok that encapsulated the two leaders' ideas. Although as a diplomatic document the declaration took a less aggressive tone than that of the two individual Prime Ministers, it still made the same argument. It stated that the human rights discourse had hitherto been dominated by Western countries, that there had been a bias towards civil and political rights, and that a balance needed to be struck between economic, social and cultural rights, and particularly the right to economic development.

The Bangkok Declaration, as the culmination of this unique discourse in Asia about the moral justifiability of implementing rights in different orders, came to represent one of the boldest statements ever made with regards to human rights. Soon thereafter, however, its whole underlying idea was tarnished. The outbreak of the 1997 Asian financial crisis and the consequent revelations about the malfunctioning of the Asian economies, their crony capitalism, corruption and poor banking regulations, convinced most observers that there was nothing more to this discourse than the Asian elite's desire to legitimize their authoritarian rule. Reinforcing this sense was the fact that the Asian governments were themselves unable to respond to their critics. Having lost the material base for their claims, and facing a disappointed and enraged citizenry, these governments grew increasingly hesitant to use their former rhetoric. What is more, there was even some back-peddling on the part of Lee and Mahathir, who were seen as trying to qualify some of their previous statements.

This tarnishing notwithstanding, the notion that there exists a plurality of morally acceptable ways to implement human rights did not die. Indeed, there remain a number of scholars, in the West and Asia alike, who still see value in the idea underlying the Asian leaders' proposition.[1] Stripping the Asian elite's argument from its persecution complex, Daniel Bell, for instance, calls for a recognition of human rights implementation diversity. He insists that trade-offs between civil and political rights and social and economic ones are not only

plausible, but do in fact occur, as much as in the West as in the East. Furthermore, he argues with regards to these trade-offs that since all rights are of equal importance, resolving them inevitably comes down to the value system, cultural traditions and circumstances of the particular society. With regards to East Asia, he contends that many of the rights trade-off resolutions appear to be made in line with what he perceives as the predominant tradition of Confucianism, and there is, in his view, nothing wrong with this. As he rhetorically asks, why would the decision of one government to restrict the civil right to form free labor associations in the name of promoting the economic right to financial security be any less acceptable than the choice of another to sacrifice the social right to universal health care for the sake of protecting the political right to choose whether or not to pay for a welfare state-type medical treatment?[2]

These philosophical constructions might well sound convincing. In the end, however, any authority claiming to curtail one set of rights for the purpose of advancing another still has the responsibility to demonstrate that this is indeed the case. Whether it places economic, social and cultural rights above civil and political liberties or vice versa, an authority can reasonably expect to garner approval for its actions only if it is able to show that it is doing its best to resolve difficult human rights trade-offs. Without such evidence, it will be easy for skeptics to question whether the duty to protect the rights of citizens is being fully undertaken. This approach could also lead to the enrichment of the international understanding regarding culturally sensitive human rights implementation.

A most obvious place to look for evidence of such culturally sensitive human rights implementation is in regional human rights mechanism (RHRM) apparatuses for monitoring, protecting and promoting human rights that function on a regional level. Since a RHRM is relatively local, a particular regional community's own cultural values about human rights can be realized. Building such a mechanism would be a way for East Asians to respond to their critics. What progress, if any, has it made towards the establishment of a RHRM? If the region does have a RHRM, does it diverge from those found elsewhere? What does this tell us about how human rights are understood in East Asia and the debate on human rights implementation diversity? These are indeed the questions which this article seeks to address.

East Asia and RHRMS: Introducing the ASEAN and APF Initiatives

As late as the early 1990s there was nothing in East Asia resembling the kind of mechanisms that Europe, the Americas, Africa and West Asia had created, these were based on a regional human rights commission, a regional human rights court and a regional human rights treaty (except that in West Asia only the first two of these institutions were established).[3] This unique state of affairs was even more significant because East Asia is home to such a sizeable proportion of the world's population. Lack of an RHRM justified questioning East Asian commitment to human rights.

More recently, however, two initiatives have emerged there suggesting that this gap might soon be filled, and thereby offering an opportunity to assess the East Asian community's approach to human rights according to its own standards. Whilst one of these initiatives mirrors those in the other regions insofar as

it is on an inter-governmental level, the other is based on a network on national-level human rights institutions legislated for by the state but functioning independent of it. With these initiatives having emerged, it seems now for the first time possible to understand the position of East Asia towards human rights in terms of actions rather than politically motivated rhetoric. Towards the end of clarifying the East Asian such stance, the rest of this section presents in detail the abovementioned two initiatives.

ASEAN – The Inter-Governmental Initiative

The first initiative taken within East Asia towards filling the existing regional human rights void was that by the Association of South East Asian Nations (ASEAN).[4] A geo-political and economic alliance in Southeast Asia dating back to 1967, ASEAN demonstrated willingness to help establish a RHRM the first time in the early 1990s. The specific expression of this wish is found in the foreign ministers' 1993 statement made in Singapore, which read that "… in support of the Vienna Declaration and Programme of Action of 25 June 1993, … ASEAN should also consider the establishment of an appropriate regional mechanism on human rights".[5]

At the time, as is the case still today, ASEAN was known for its culture of consultation and consensus-building, commonly referred to as the "ASEAN way." Since its members were thought of as strongly committed to the principle of non-interference in the internal affairs of others, the apprehension existed that on a question as controversial as human rights, which anyway was not something these countries had originally sought cooperation on, no results would be achieved. On the other hand, there was also a significant amount of expectation and interest in this development. ASEAN had come to wield considerable influence in international relations, establishing itself as the most successful regional group comprising of developing countries, and it was thought that, if any initiative was to be made in East Asia towards creating a RHRM, it would come from ASEAN.

There was no immediate follow-up by the ASEAN governments on their 1993 statement. This prompted the non-governmental organization LAWASIA to create a Working Group whose aim was to produce a concrete draft proposal for the realization of an "ASEAN Human Rights Mechanism (HRM)." The resulting proposal, which envisioned the creation of a mechanism similar to those in existence on the rest of the world's regions, i.e. consisting of a commission and/or a court and a treaty, did not meet with ready acceptance by ASEAN. The reason for this was a disagreement amongst members on whether a centralized system with monitoring, promotional and recommendatory functions, and the capacity to accept complaints from states and individuals was the best way forward. The view also existed that it was more appropriate to have human rights commissions in all ASEAN countries, with the regional mechanism being born when they began coordinating efforts.

This setback notwithstanding, LAWASIA's Working Group sought to maintain the momentum for the creation of an ASEAN HRM by instigating a further and livelier debate about what the mechanism should be. In 2008, after conducting a series of informal seminars and meetings with various ASEAN representatives, this Working Group managed to push the organization to alter its Charter so as to include "human rights protection and promotion" as one of its core

functions, and to enshrine their new commitment to creating a HRM. The revised Charter, which vowed in Article 14 of Chapter IV that ASEAN will establish a regional human rights commission (to which it referred to as an "ASEAN human rights body"), was seen by some as a herald for a new beginning for human rights protection in East Asia. Others preferred to remain skeptical until they see what actual remit the terms of reference for this body endow it with.

Duly created in 2009, the ASEAN Inter-governmental Commission on Human Rights (AICHR) has now begun its operations. It has hitherto attempted to perform promotional and advisory functions, especially in the areas of migration, corporate social responsibility and human rights, and the right to peace. Furthermore, it aims to provide East Asia with human rights institutions like those present in the rest of the world. For example, AICHR has recently drafted an ASEAN Human Rights Declaration (AHRD) that aims to provide the East Asians with their own statement about human rights, and is expected to make efforts towards the establishment of a regional human rights court.[6]

Nearly two decades after ASEAN's human rights initiative, the impact of its Human Rights Declaration has been mixed. Anxiety is widespread amongst the international community that the principles expressed in this document do not reach, let alone go beyond, the standard to which many of the ASEAN members have already committed by signing the UDHR, given its caveat that "the realisation of human rights must be considered in the regional and national context". Additionally, the question is being asked with regards to the Declaration as to whether it will eventually lead to a human rights treaty. Drafting a Declaration, observers note, is all very well and good for giving an identity and unique voice to the region on the international arena, but if it does not prompt the creation of a truly binding document, it would be of little use to the East Asian people. Secondly, the revision of AICHR's terms of reference in 2014 is also a point for discussion. The eyes are on these terms in order to determine if the Commission's capacity will be strengthened, making it possible for it to function as a protective authority as well as a promotional and advisory one. In other words, the attention is on whether the AICHR will come to resemble a court that hands down binding judicial decisions.

The continuing evolution of ASEAN's human rights initiative granted, it is not too early to render an appraisal of its achievements so far and of its future prospects in this area. Before this is done, however, an overview of another type of human rights initiative in the region is in order.

ASEAN Peoples' Forum – The Initiative Independent of the State Structures

Perhaps a more intriguing initiative than the ASEAN's is that which was made in 1996 by the National Human Rights Institutions (NHRIs) of Australia, India, Indonesia and New Zealand. These NHRIs were the first to be created in this region after the establishment in 1993 of the Paris Principles – UN standards relating to such institutions' independence, mandate and functions.[7] Being the region's pioneers, these NHRIs decided to hold an informal meeting amongst themselves in the Australian city of Darwin in order to exchange ideas on how to overcome common challenges. Seeing their liaison as a success and resolved to continue meeting on an annual basis, they called their new framework the Asia Pacific Forum for National Human Rights Institutions (APF of NHRIs, henceforth

"APF" or the "Forum") and laid down, in a document entitled the "Larrakia Declaration," some terms and goals for their exchanges. Amongst the items on this declaration was that a concerted effort would be made to assist human rights advocates in neighboring countries in their bid to achieve the NHRI end, i.e. the creation of a Paris Principle-compliant NHRI. It was envisioned that, by recruiting more members and strengthening its role, the Forum could become a superior alternative to the human rights institutions ASEAN was preparing to institute. This evolving initiative has come a long way in this direction.

Although there was little attention on the APF at the outset, as the 1990s progressed, both its number of affiliates and its scope of activities rapidly expanded. As there was still no sign of any other formal regional human rights body in the region, the Forum began to attract attention as the structure around which a framework for regional human rights protection could develop. With regards to membership, as early as the year following APF's formation four new NHRIs joined. By 2012 the number had grown to eighteen, with fifteen full and three associate members, the new additions being: Afghanistan, Bangladesh, Jordan, Malaysia, the Maldives, Mongolia, Nepal, Palestine, the Philippines, Qatar, South Korea, Sri Lanka, Thailand, and Timor Leste. With legislation for the establishment of NHRIs being currently in preparation in a number of other Asia Pacific countries, including, for example, Myanmar and Papua New Guinea, the APF looks as if it has not yet reached the limits of its membership expansion.

It is not only quantitatively that the APF has strengthened. A remarkable evolution is observable on a qualitative level as well. Indeed, the APF has developed an intricate system of programs through which to support human rights implementation. Firstly, its secretariat provides guidance to the governments in the region planning to establish NHRIs so as to ensure that the resultant bodies satisfy the standards contained in the Paris Principles. Examples of such activity include APF's interactions with the governments of: Pakistan in 2005 and 2008, Saudi Arabia in 2006, Cambodia in 2006, China in 2006, as well as a workshop for 13 Pacific countries in 2009. Secondly, APF supports the activities of the existing regional NHRIs, providing their staff with specialist training that equips them with skills necessary to conduct their responsibilities effectively. Courses are offered on a range of issues, from purely substantive ones that relate to knowledge on specific human rights problems, to the most practical ones, such as the manner of handling the media. Owing to such training, a number of NHRIs have begun to interpret their mandate more creatively, going further than the Paris Principles by, for example, facilitating UN commissioners' visits, preparing "shadow reports" and conducting inspections of relevant facilities such as detention centers.

The structure of the Forum has become more intricate as well. Since 1998, it has also had the capacity to consider specific situations or human rights questions that the region faces through an Advisory Council of Jurists (ACJ). This body, which consists of one senior jurist from each member state, regularly produces reports on human rights issues that the region as a whole faces, with the list of the specific reports hitherto produced being: Child Pornography (2000), the Death Penalty (2000), Trafficking of Women and Children (2003), Anti-terrorism Legislation and the Rule of Law (2004), Torture (2005), the Right to Education (2006), the Right to Environment (2007), Corporate Accountability and Government Responsibility (2008) and Sexual Orientation and Gender Identity (2010).

The APF has produced results. First, the body is credited with the abolition of the death penalty from the Fiji Penal Code. Second, the report on terrorism is seen as having been instrumental in the overruling of a decision about the continued detention of a person considered a "national security risk" in New Zealand. Third, the passage of the Anti-torture Bill in the Philippines in late 2009, which ended the twenty-three year wait for the enactment of legislation to implement the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) is also cited as a result of the efforts of the Commission on Human Rights of the Philippines to push the government to implement what the ACJ saw as Minimum Interrogation Standards.[8] In relation to the ACJ's report on torture, it has also been remarked that:

> There is evidence to indicate that at least some Asia-Pacific NHRIs have undertaken actions at the national level that are in line with the ACJ torture recommendations. For instance, in line with the ACJ's recommendation for NHRIs to encourage ratification and full implementation of the UNCAT and OPCAT, the Australian Human Rights Commission reported to the APF that it had developed position papers concerning Australia's compliance with the UNCAT and [the Optional Protocol to the Convention against Torture]. The Commission on Human Rights of the Philippines, and the National Human Rights Commission of Mongolia, are also known to have undertaken activities that have referred to the ACJ's recommendations….[9]

In light of these developments the Forum, with the ACJ as its most powerful part, is seen within as a potential candidate for the region's HRM. Amongst those who have expressed positive views about the future of the APF as a RHRM has been Prof. Muntarbhorn of Thailand's Chulalongkorn University. According to him, the APF is "the closest that the Asia-Pacific region has come to a regional human rights arrangement or machinery for the promotion and protection of human rights" and the most promising framework for the future.[10] Prof. Muntarbhorn's support for the APF is in fact so strong that he urges the UN to abolish the rest of its activities within its five-year Asia Pacific regional program so as to ensure that it can provide sufficient support for the Forum.[11] Furthermore, there is a group of scholars based in Australia as well (Durbach et. al), who have stated, on the basis of a rigorous analysis, that the APF has, "in a comparatively short period of time, conducted its primary function of strengthening and establishing national human rights institutions to good effect, developing 'a reputation as the pre-eminent regional human rights forum.'"[12]

Neither ASEAN nor the APF has yet developed into a formal RHRM which could be used to assess the questions put forward at the outset of the article. However, what do the prospects look like for either of them becoming a RHRM, and what would the specific structure or character of this potential mechanism say about human rights implementation? The rest of the article examines this question.

An Appraisal

At a first glance it might appear that ASEAN is well on the way to providing a HRM in East Asia parallel to those on regional levels in Europe, the Americas, Africa, and West Asia, and that even if the efforts of the latter organization fall short in this direction, those of the state-independent APF might instead succeed. However, a closer inspection of each of these two initiatives reveals that, on their own at least, neither of them looks set to fill the regional gap.

To start with ASEAN's initiative, its development has been slow. Indeed, for the nineteen years since ASEAN's articulation of the plan to create a sub-regional HRM, only a commission – the AICHR – has been created, and even this modest output is not particularly impressive. As it stands today, the AICHR is significantly weaker than its counterparts in other world regions. In contrast to these other commissions, it lacks protective powers. It does not, more precisely, accept complaints of alleged human rights violations – not that it has the authority anyway to produce binding decisions even if it held trials, which is another example of its deficiency. That the AICHR would not take on cases became clear in 2010 when the individual plea of Noemi Parcon was rejected. Parcon was a widow of one of the 32 Filipino journalists killed in Ampatuan, Maguindanao in November 2009. Having been ignored by the Philippine government, she attempted to obtain justice via AICHR. Although there had been leaders, like the former Singaporean Foreign Minister George Yeo, who had presciently predicted that an ASEAN human rights body would have "tongue but not teeth,"[13] the Parcon case was nonetheless a source of great disappointment for many.[14]

A further drawback of the AICHR is that its remit only goes as far as encouraging the ASEAN member states to ratify international human rights instruments and to honor their commitments towards human rights protection made through such ratifications. The AICHR's terms of reference do not authorize it to oversee the member states' progress in implementing the latter instruments, conducting such activities as investigative visits of controversial sites, for example, or obliging the production of and evaluating states' periodic reports on the matter. Nor do they allow AICHR to enforce compliance with the international norms.[15] What is more, this situation, which is also a reason for AICHR to be seen as "lacking in teeth," appears unlikely to change given ASEAN's preference for decision-making by, as the Assistant Director for Programme Coordination and External Relations ASEAN Termsak Chalermpalanupap puts it, "friendly discussion and persuasion."[16]

Because the AICHR is an internal organ of ASEAN, which contains undemocratic member states, there is concern that it may simply serve governmental interests. Chalermpalanupap has responded to such criticism by stating that the AICHR was never intended to be an "independent watchdog." From the very beginning it was envisioned as a part of ASEAN, and that "[t]o moan [about this aspect of the AICHR] is to bark up the wrong tree."[17] Yet, the anxiety over the AICHR's decision-making process and its elected government representatives' autonomy is difficult to dispel, especially in the face of reports that the drafting of the AHRD continues to be a secretive affair.[18] The fact is that the grassroots organizations in most member states feel they have been side-lined from the process, as their AICHR representatives had not held national level consultations. Many of these organizations were represented at the civil society coalition which submitted a detailed joint statement with specific recommendations on a large variety of issues and rights during the Fifth Regional Consultation on ASEAN and Human Rights. There was also criticism during the AICHR's drafting process that other stakeholders, such as NGOs, had been excluded.

Finally, the AICHR is also undermined in that regardless of the close connections on economic matters between ASEAN and Japan, South Korea and

China, it has not yet managed to engage them on this subject. The bringing on board of these three actors is important because they wield significant influence within Southeast Asia, and so any project that does not involve them could have only limited success. ASEAN clearly has strong links with Japan, South Korea and China through the ASEAN+3 framework, meaning that AICHR could possibly recruit them on its initiative. However, there has been no sign of this occurring.

As for the APF, this initiative too is not as healthy as it might appear at first sight. In addition to sharing the same problem as ASEAN of not having incorporated as influential regional players as Japan and China, the APF is also afflicted with the problem of pseudo-NHRIs. Indeed, a number of APF's NHRIs are counterfeit ones, created by authoritarian regimes for the purpose of whitewashing rights violations and providing a shield from international criticism and scrutiny. It is true, as Brodie argues, that the APF NHRI (re-)accreditation process has over the years become more stringent.[19] Evidence for this is provided by the instances of Paris Principles non-compliant NHRIs having been downgraded or altogether expelled.[20] However, it is also true, as pointed out by Peterson, that there are considerable accreditation omissions, and that the Principles themselves are probably not the most suitable criteria for judging the independence of an NHRI. NHRIs with dubious credibility (such as that of Nepal, to use Peterson's example) have not only been allowed access to the Forum on the first place but have also been tolerated as members despite repeated failure to produce evidence of their meeting the Paris Principles' standard.[21] Furthermore, and to use another of Peterson's examples, it is highly irregular that a human rights commission as effective and accomplished as that of Hong Kong's Equal Opportunities Commission is awarded the same rank in the APF as Iran's Islamic Human Rights Commission. Whilst it might indeed make sense to give Hong Kong's Equal Opportunities Commission the lowest rank in light of its status as a sub-national human rights body (itself due to Hong Kong's standing as merely a Special Administrative Region of China) or its limited mandate, this body still has so much more to show for itself when compared to other NHRIs.[22] In short, not only is the peer-review accreditation process fallible, but the criteria according to which NHRIs are judged is also problematic.

The Prospects: Mutual Symbiosis?

For all their faults and deficiencies, the ongoing initiatives of ASEAN and APF to provide the region with a HRM still seem to hold some promise for success, albeit more as a set or a complementing pair than individually. They reinforce each other. Their co-existence could be said to have the effect of propelling their individual development, making each take steps that they might well not have taken on their own.

Consider, for example, the very formation of the APF. According to a senior official of the Asia and Pacific Region at the UN Office of the High Commissioner for Human Rights, the plan for creating this Forum emerged as a reaction to the 1993 ASEAN announcement that it intended to launch a RHRM.[23] In the words of this official, the announcement prompted a group of Australia-based human rights activists to "take things [with regards to creating a RHRM] in their own hands." They believed that an initiative by a body such as ASEAN, whose

original purpose is so far detached from human rights, and whose organizational culture is so unconducive to realizing any aspirations and goals whatsoever, is likely to do more harm than good to the human rights cause (presumably because it would give the false impression that measures are being taken with regards to protecting rights there). They reportedly decided to make an initiative of their own that would put ASEAN to shame. The fact that the APF's inauguration meeting was held in Australia corroborates the claims of the informant, and it could thus be concluded that the birth of APF came out of a thrust to counteract ASEAN. Had ASEAN not taken a step to create a HRM, APF would have never been established, nor would its founders have been catapulted into this long term venture to strengthen it so dramatically.

That the vice versa effect also exists, i.e. of the APF in turn reinforcing ASEAN's human rights initiative, is also a case for which evidence could be found. This becomes clear when the work of the ASEAN NHRI Forum is reviewed. This NHRI Forum, comprised of four APF NHRIs – namely those of Indonesia, Malaysia, the Philippines and Thailand - has been involved with ASEAN since 2007, and has now managed to establish a clear foothold. Identifying them collectively as a "partner," ASEAN regularly invites the NHRI Forum to take part in their consultations. [24] Having gained a position of influence within the ASEAN through the NHRI Forum, the APF has begun to function as a watchdog of ASEAN. Some of the areas in which it has been active include: encouragement of NHRIs compliant with the Paris Principles in ASEAN member states where these still do not exist; monitoring ASEAN's delivery on promises such as, for example, the one it made through the Cebu Declaration on the Protection and Promotion of the Rights of Migrant Workers; and correction of AICHR's shortcomings with regards to power, mandate and output. [25]

Of the two initiatives, the APF is the more credible as it has a screening process that at least aspires to leave out bogus members. However, given that the inter-governmental ASEAN initiative is more authoritative and could thereby lead to a more effective (read "binding") RHRM, it seems the best direction in which the current situation could develop is for the APF to become the voice that seeks to enhance the ASEAN human rights institutions. In addition to infiltrating the ranks of ASEAN and seeking to improve from within, the APF could attempt to generate greater pressure on the former externally. The Forum could achieve this by regularly sending reports to the UN on the state of ASEAN's initiative.

This is precisely how ASEAN envisions its and APF's role in the future. As attested by the following passage from its website:

> [The] Working Group [for an ASEAN HRM] is … encouraged by the progress of the national human rights institutions (NHRIs) in ASEAN States. … Poised to sign a declaration of cooperation among themselves, [the] Working Group believes that cooperation among NHRIs is a precursor to an intergovernmental human rights mechanism. With these developments at hand, the possibility of having a regional human rights mechanism may not be as unlikely as it seems.[26]

Conclusion

This article has discussed the ASEAN and the APF initiatives towards creating a RHRM. After introducing and evaluating the two, the argument was made that despite the developments unfolding slowly and with many uncertainties and

drawbacks, not all is yet lost with regards to East Asia's prospects for emerging equipped with a HRM.

The HRM evolving in this region is an unconventional one, comprised of the ASEAN as a main part, with its AICHR possibly developing into a court that renders decisions which carry weight with the countries involved, and the APF, with its network of NHRIs active both within and outside of the ASEAN structure, as an additional part that works to improve the quality of the inter-governmental institutions.

Whilst it cannot be taken for granted that this is indeed what the future holds for the region in terms of the development of a HRM, at the present stage the outlook is not gloomy. The development of the ASEAN and APF initiatives is still ongoing and there is good evidence to suggest that they are mutually reinforcing each other.

Returning to the question posed at the outset of the article about what, if anything, a mechanism such as the above-described one might be telling us about how human rights are understood in East Asia, to start with, the very existence of such initiatives as the ASEAN and the APF and their endurance contradicts some of the earlier versions of the "Asian values" argument – those in particular which assume that human rights are fundamentally at odds with an Asian culture. On the issue of whether there is anything different in the way these initiatives implement human rights, it is still early to tell. However, their continued development can only increase the Asian voice in the international arena with regards to human rights, so that in the future Asia will be able to contribute more equally.

Finally, whilst ASEAN's human rights initiative looks set to mirror those of other regions, the bottom-up alternative provided by the APF will provide the world with valuable lessons about the different modes through which human rights can be advanced. Apart from compelling ASEAN to move more quickly than it might have otherwise done, the APF gives human rights activists within individual states the chance to experiment with strategies that they deem best for their own situation. This should lead to a richer dialogue based on concrete experiences rather than abstract theories. How these developments unfold over the next decade will be the subject of great interest for both those who are optimistic and skeptical about universal human rights protection ever being achieved.

Endnotes

[1]   Randall Peerenboom, *Beyond Universalism and Relativism: The Evolving Debates about "Values in Asia"*, Indiana International & Comparative Law Review (2002); Randall Peerenboom, (ed.) Asian Discourses of Rule of Law, Theories and Implementation of Rule of Law in Twelve Asian Countries, France and the US, London: Routledge Curzon (2004); Anthony Woodiwiss, *Making Human Rights Work Globally*, London: GlassHouse Press (2003); Anthony Woodiwiss, "Community in the East: Towards a New Human Rights Paradigm," in Chua, B-H, (ed.), *Communitarian Politics in Asia*, London: Routledge, (2004), 139-156; Anthony Woodiwiss 'What Could it Mean to Take Human Rights Seriously?', unpublished paper, (2006) 1-18; Daniel Bell, *Beyond Liberal Democracy: Political Thinking for an East Asian Context*, Princeton: Princeton University Press (2006); Damien Kingsbury, Leena Avonius (eds.) *Human Rights in Asia: A Reassessment of the Asian Values Debate*, New York: Palgrave Macmillan (2008).

[2]   Daniel Bell, *Beyond Liberal Democracy: Political Thinking for an East Asian Context*, Princeton: Princeton University Press (2006), 61.

[3]   The full list of the institutions of which these RHRMs were comprised include: the European Commission of Human Rights, the European Court of Human Rights, the European Convention of Human Rights, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the American Convention on Human Rights, the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, African Charter on Human and Peoples' Rights, the Arab League Permanent Human Rights Commission and the Arab Charter on Human Rights.

[4]   ASEAN's current members are Brunei, Cambodia, Indonesia, Malaysia, Myanmar, Laos, the Philippines, Singapore, Thailand and Vietnam. ASEAN also has links with Japan, South Korea and China through the so-called "ASEAN+3 framework".

[5]   *Joint Communique of the Twenty-Sixth ASEAN Ministerial Meeting Singapore, 23-24 July 1993*, Human Rights Section, Clause 18. Retrieved on 14 June 2012 at: www.aseansec.org/2009.htm.

[6]   For the full text of the Declaration see: www.asean.org/news/asean-statement-communiques/item/asean-human-rights-declaration.

[7]   The Paris Principles were established through General Assembly Resolution 48/134. The Principles require that NHRIs have a constitutional or legislative mandate to promote and protect human rights but function at an arm's length from the state. NHRIs, while creatures of law depending on a statutory basis for their existence and actions, and a part of the State structure, are not to be placed under the control of either the executive, or the legislature or the judiciary.

[8]   Suraina Pasha, "National Human Rights Institutions and the Struggle against Torture in the Asia-Pacific Region", unpublished article available at: projects.essex.ac.uk/ehrr/V6N2/Pasha.pdf. See in particular Pasha's discussion of the developments within the APF Secretariat, 95-96.

[9]   *Ibid.*, 91.

[10] Vittit Muntarbhorn, "In Search of the Rights Track: Evolving a Regional Framework for the Promotion and Protection of Human Rights in the Asia-Pacific Region" (Draft paper prepared for the Office of the UN High Commissioner for Human Rights). Prof. Muntarbhorn's discussion paper was delivered at the Opening Ceremony of the 13th Annual Workshop of the Framework on Regional Cooperation for the Promotion and Protection of Human rights in the Asia-Pacific Region. Beijing, 30 August 2005.

[11] *Ibid*.

[12] Andrea Durbach, Catherine Renshaw and Andrew Byrnes, "A Tongue but no Teeth?: The Emergence of a Regional Human Rights Mechanism in the Asia Pacific Region", *Sydney Law Review*, 31 (2009), 211-238.

[13] This is the expression Minister Yeo used in 2007 with regards to AHRB, and it is cited in *Herald Tribune*, 17 November 2007. Retrieved on 14 June 2012 at: www.iht.com/articles/as/2007/11/18/asia/AS-GEN-ASEAN.php.

14   For example, see the Amnesty International press release "ASEAN human rights commission stumbles at first hurdle", *The Online Citizen*, 31 March 2010.

15   See "ASEAN Intergovernmental Commission on Human Rights (Terms of Reference)". Retrieved on 14 June 2012 at: www.aseansec.org/publications/TOR-of-AICHR.pdf.

16   Termsak Chalermpalanupap, "10 Facts about ASEAN Human Rights Cooperation", unpublished paper available at: www.aseansec.org/HLP-OtherDoc-1.pdf.

17   *Ibid*.

18   For an example of a most recent such report, see: ihrlaw.org/2012/01/09/draft-asean-human-rights-declaration-remains-confidential-to-be-completed-in-2012.

19   For more details on this, see Meg Brodie, "Processing Norm Socialization: Why Membership Matters. The Impact of the Accreditation Process of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights", 80 *Nordic Journal of International Law* 143 (2011).

20   One such example is the Fiji Human Rights Commission, whose APF membership was suspended in 2007 as a result of the chairwoman expressing controversial statements about the country's 2006 coup. During the same year, Sri Lanka's NHRI was also downgraded due to its lack of independence, political impartiality and regular rapport with civil society. For further details about these incidents, see: Catherine Renshaw, Andrew Byrnes and Andrea Durbach, "Implementing Human Rights in the Pacific Through National Human Rights Institutions: the Experience of Fiji" 40 *Victoria University Wellington Law Review* 251 (2009-2010); "Fiji Human Rights Commission suspended from international body", Radio New Zealand International, 2 April 2007; and "Sri Lanka and Fiji: Ghost Human Rights Commissions" The Financial Express, 24 September 2011.

21   Carole J. Petersen, "Bridging the Gap?: The Role of Regional and National Human Rights Institutions in the Asia Pacific" 13 *Asian-Pacific Law & Policy Journal* 174 (2011).

22   *Ibid*., pp. 205-209. Hong Kong's Equal Opportunities Commission stands as an exemplar of an effective NHRI. One of its most significant achievements is that whereby, upon failure to persuade the government to correct its secondary school allocation program, which skewed towards boys, making it easier for them, compared to girls, to enter a top institution, it sought judicial review. The outcome of the trial, which was in favour of the Commission, had a systematic impact.

23   Personal communication, London, 2 June 2011.

24   This is how ASEAN identifies the ASEAN NHRI Forum on its website. See in particular the following webpage on the ASEAN website: www.aseanhrmech.org/partners.html.

25   For further details see: ASEAN NHRI Forum's website at: www.aseannhriforum.org; ASEAN NHRI Declaration of Cooperation at: www.asiapacificforum.net/working-with-others/regional-mechanisms/downloads/asean-nhri-forum/ASEAN_NHRI_Forum_Declaration_of_Cooperation.pdf; and the Seoul Guidelines on the Cooperation of NHRIs for the Promotion and Protection of Human Rights of Migrants in Asia, Seoul, South Korea, 2008, at: www1.umn.edu/humanrts/instree/Seoul-Guidelines.html. See for example: *Position Paper Concerning the Political Declaration on the ASEAN Inter-governmental Commission on Human Rights (AICHR)*. Submitted at the 3rd Consultation Meeting with the High Level Panel, 28 August 2009, Jakarta. Retrieved on 23 June 2012 at: www.aseannhriforum.org/en/home/joint-statements.html.

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Assertive or Reassuring Chinese Presence in Troubled Waters? The Decision-Making Process of Beijing's South China Sea Policy

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ABSTRACT

China's maritime power has been rapidly ascending in the past three decades alongside its exceptional economic development. Nevertheless, regional countries are suspicious of China's rapid rise because although Beijing pledges to pursue a "peaceful development" its assertiveness in South China Sea has been increasing in recent years. What causes the contrast between China's assertiveness and its reassuring rhetoric? This article argues that due to the fragmented decision-making process, China lacks clear and well-coordinated policies on the South China Sea disputes. In particular, inter-agency competition encourages government agencies to undertake more aggressive actions given the attempt to bargain for more budget funds and bureaucratic power. This phenomenon has mixed implications for regional stability in Asia. The assertiveness of China is not the product of a well-thought out plan, and Beijing's attempt to break the maritime balance of power may not as imminent as the realists warn. On the other hand, without a functional policy coordinating mechanism, more unpredictable Chinese operations at sea may be seen in the future.

KEY WORDS: *South China Sea, Decision-Making Process, Fragmented Authoritarianism, China*

Introduction

Since 2009, China has changed its previous policy of shelving disputes with neighbouring countries and undertaken a more assertive position on its territorial claims in South China Sea (England 2010; Shen 2011; Thayer 2011). Belligerent patrol operations undertaken by People's Liberation Army Navy (PLAN) and other maritime law enforcement forces frequently cause maritime standoffs between China and other South China Sea claimants such as Vietnam, the Philippines and Malaysia. Regional countries and United States have warned about the negative implication of China's assertiveness for regional security in Asia (Tofani 2012). In addition, some argue that the Chinese government is considering the sovereignty issue in South China Sea as one of China's core interests, serving as another example of China's assertive position on the disputes (*Zeen News* 4 July 2010). The unclear intention of the Chinese government makes neighbouring countries more suspicious of China's ascending maritime power.

Figure 1. Geographic Scope of South China Sea (Source: Stein Tønnesson, 2000)

China's assertiveness in South China Sea not only leads to a more insecure strategic environment in the region but also undermines Beijing's "peaceful development" rhetoric which argues that China will not seek hegemony or military expansion now or in the future (Information Office of the State Council of PRC 2009). What is causing the contrast between China's "peaceful development" rhetoric and its assertiveness in South China Sea? What is the decision-making process of Beijing's South China Sea policy? Is there a clear driver dominating Beijing's policy on the South China Sea disputes? These are important questions, not only for the understanding of China's decision-making process but also for regional security in Asia. Due to the fragmented decision-making process, Beijing's South China Sea policy is driven by multiple players as the product of bureaucratic bargaining. Not a single player can dominate the decision-making process. In addition, government agencies are inclined to undertake aggressive actions in disputed waters in a bid for more budgetary funds and bureaucratic power. The government's policies are disjointed, causing the contrast between Beijing's assertiveness in South China Sea and its reassuring "peaceful development" rhetoric.

The remainder of this article is divided into three major sections. The first offers a brief summary of the fragmented policy process in China, as well as major players' role in the making of Beijing's South China Sea policy. The second discusses some key features of the policy process: inconsistent policies made by various government agencies, competing bureaucratic interests, blossoming nationalism, and the manipulation of public opinion. The third section concludes major findings of this study and addresses the implication of the fragmented decision-making process for regional stability in Asia.

The Fragmented Policy Process

The "Fragmented Authoritarianism (FA)" model has been selected as the theoretical framework of this study.[1] The FA model was introduced by Kenneth Lieberthal and his colleagues in late 1980s. Since then, it has been a leading theoretical framework for the study of China's economic projects and relevant decision-making process (Mertha 2008). Aiming at the analysis of decision-making process of China's economic projects in the reform era, the FA model devotes itself to the study on the structural allocation of authority and the behaviors of the players relevant to the process of policy deliberation. It argues that lower levels of authority in the political system are fragmented and disjointed, and that reform policies have increased fragmentation (Lieberthal 1992). The policy arena is governed by the interests of government organs, and policy outcomes are made by an incremental process of bureaucratic bargaining (Lieberthal and Oksenbergh 1988; Mertha 2009). Such a fragmented process may cause protracted decision-making, inconsistent policy outcomes, and the distortion of policy implementation.

Beijing's current South China Sea policy is aptly described by the FA model. The phenomenon of "Five Dragons Stirring up the Sea" is a good example (Goldstein 2010). "Five dragons" means that other than PLAN, China's maritime security policy has been complicated by its maritime law enforcement forces China Maritime Surveillance (CMS) under State Oceanic Administration (SOA), Fishery Law Enforcement Command (FLEC) under Ministry of Agriculture, Maritime Safety Administration (MSA) under Ministry of Transportation, The Maritime Police under Ministry of Public Security, and General Administration of Customs (GAC).[2] These law enforcement forces have overlapping duties without a functional mechanism to coordinate policies and operations. Some further

argue that there are actually "nine dragons" stirring up China's maritime policy today. These four extra "dragons" are: the Ministry of Foreign Affairs (MFA), the Chinese Military, the Environment Ministry and large Chinese stated-owned enterprises (SOEs) (International Crisis Group 2012). Put simply, there is a problem facing Beijing today: the lack of a functional policy coordinating mechanism in government.

Multiple Players Influencing South China Sea Policy

To make appropriate analysis of the decision-making process of Beijing's South China Sea policy, it is necessary to identify who the major players in the process are. David Lampton's study on Chinese foreign and security policy-making identifies several major players which can exert their influence upon the deliberation of policies: the top leadership, the government agencies at central level, the People's Liberation Army (PLA), provincial authorities, and public opinion (ed. Lampton 2001). Chinese central government agencies involved in Chinese maritime disputes are the Ministry of Foreign Affairs, Chinese Communist Party (CCP) Propaganda Department and its mouthpiece media, the maritime law enforcement agencies and state-owned enterprises (International Crisis Group 2012; Jakobson and Knox 2010). In addition, some argue that the role of Chinese scholars and think tanks should be considered given their ascending presence in the decision-making apparatus (Bondiguel and Kellner 2010; Cabestan 2009; Liao 2006; Zhao 1992). A fragmented political system endows these players with more room to manoeuvre.

In a political system characterized by the FA framework, the Chinese authority at the top remains strong. The 25-member CCP Politburo and the 7-member Politburo Standing Committee (PSC) are the supreme organs in the bureaucratic hierarchy. Consensus building is an important principle for CCP leaders, and disputes which cannot be resolved at lower level are settled here. However, despite the final control of the PSC members, decisions cannot be made without specialized information and analysis from Chinese bureaucrats. The MFA, with a pool of professional diplomats and experts, provides CCP leaders with policy analysis memos which are based on daily reports from Chinese embassies overseas (Jakobson and Knox 2010; Lu 2001). The MFA is also China's chief executive organ of foreign affairs. In the fragmented decision-making process, major issues reviewed by PSC members are decided in principle or within broad policy guidelines. The MFA's task is to convert these principles into substantial policies or plans. In other words, if the policy guidelines made by PSC is the "bones of the policy," then MFA's mission is to add "flesh and blood" to policy guidelines (Lu 2001).

The PLA and China's maritime law enforcement agencies are the primary constituents of China's maritime power. In general, they are hardliners in the country's foreign policy apparatus. The PLA is an active advocate of a hawkish position on China's maritime disputes with neighbouring countries (Jakobson and Knox 2010; Swaine 2012). CMS and FLEC also play aggressive roles in the South China Sea disputes. (Hoffman 2012; *The Japan Times* 25 June 2012). The PLA can directly pass ideas on to top decision-makers via its seat in CCP's Leading Small Groups. Throughout the consultation and consensus-building process, the

PLA also provides civilian CCP leaders with vital intelligence based on its own expertise (You 2006). In addition, SOA is provided with research capability as well as administrative might. It publishes various reports on China's maritime affairs such as the annual "Report on China's Maritime Development," a specialized publication providing decision-makers detailed analysis of China's maritime affairs (Li 2010).

Other Chinese government agencies also play marginal roles in the decision-making process although they are not directly in charge of China's foreign and security policies. First of all, the CCP Propaganda Department is inclined to use its mouthpiece media to make nationalistic claims about "protecting China's lost territories." "Lost territories" is a phrase Chinese people normally use to describe some disputed islands such as the Spratly Islands and Taiwan. Second, China's state-owned oil companies have a role because of their drilling projects in disputed waters. China National Offshore Oil Corporation (CNOOC) plays the most significant role in China's maritime disputes due to the company's capacity of both research and deep-water exploitation (*Xinhua News* 9 May 2012).[3] Third, some coastal provincial governments are involved in South China Sea disputes. The economic reform has reshaped the central-local relationship domestically and made local governments, especially those of coastal provinces, more interested in economic liberalization (Yang 2007). Coastal governments such as Guangdong and Hainan now have their own economic development agenda and local maritime law enforcement departments. They are eager to expand their economic activities, including tourism and fishery, and some of these economic activities are made in disputed waters. For example, since 2010, the Hainan Province has encouraged local fishermen to "build big boats and explore the deep sea" (*Xinhua News* 1 August 2012; International Crisis Group 2012). Supported by the provincial government, Chinese fishing boats are often involved in maritime disputes between China and other regional countries (Auslin 2012).

Finally, the more diversified foreign relations in the past three decades have provided Chinese scholars and think tanks with leverage to influence the policy outcomes. China's primary foreign and security policy organs, MFA and Ministry of State Security, have their own think tanks, and Chinese scholars submit policy research reports to decision-makers (Liao 2006).[4] With professionalized experiences and knowledge, academics can negotiate with other government officials or persuade the decision-makers to undertake policies they favor in the consensus building process. Another pathway for scholars to convey their ideas to the decision-makers is through public debate (Zhao 2005). For example, popular TV talk shows like "Focus Today (*jinri guanzhu*)" and "Global Watch (*huanqiu shixian*)" regularly invite Chinese scholars to comment on foreign issues. In addition, these programs are converted into online video and posted on Chinese internet forums, sparking discussion among Chinese netizens.[5] Online public opinion has been imposing more pressure on the decision-makers, the Foreign Ministry in particular, as the number of Chinese netizens increased rapidly in recent years (Hong 2005; Qi 2010; J. Wang 2011). Therefore, Chinese can use public debate as a platform to exert indirect influence on decision-making.

Inconsistent Policies Made by Various Government Agencies

Even though Chinese leaders pledge to pursue "peaceful development" and create a "harmonious ocean," there are not clear or consistent policies undertaken by Chinese government organs regarding the South China Sea disputes.[6] A series of maritime clashes caused by Chinese patrol vessels' belligerent operations since 2009 significantly undermined MFA's efforts to enhance ties with regional countries (*Asia Times* 10 May 2013). A good example is the 2011 maritime clash in the Reed Bank, a part of the Spratly Islands located in the west of Palawan Island. Four months before the incident, in November 2010, MFA declared that China would make its effort to establish a new security concept which highlights mutual trust, mutual benefit, equality and cooperation. (*Xinhua News* 4 November 2010). MFA's declaration was believed to respond to neighbouring countries' discomfort with Chinese efforts to rank South China Sea as one of its core interests (Tran 2011). Nevertheless, MFA's moderate tone did not last long and the goodwill was immediately damaged by a Sino-Philippine maritime clash on March 2, 2011, when a Philippine oil-exploration ship was confronted by two PLAN patrol vessels in the waters near the Reed Bank (Hookway 2011). PLAN's aggressiveness led to a strong reaction from the Philippine government, which vowed to strengthen the Philippine military's preparation for defending the Spratly Islands (Storey 2011). Clearly, this incident weakened MFA's efforts to develop goodwill in the South China Sea region.

Additionally, from MFA's point of view, the South China Sea disputes should best be solved through bilateral negotiations (*Xinhua News* 28 June 2011). In particular, US involvement in the South China Sea disputes should the last thing that MFA wishes to see (Raine 2011; *The China Post* 26 July 2010). The Chinese Ambassador to the Philippines argues that the Sino-Philippine disputes over the Spratly Islands should be regarded as a bilateral issue, and any attempts to involve a third party such as the United States should be discouraged (Mabasa 2011). Nevertheless, some Chinese maritime law enforcement agencies' assertive patrol operations in South China Sea contributed to the revision of U.S. strategic plans in Asia. The 2009 Impeccable Incident and the 2012 Scarborough standoff are good examples.

The *Impeccable* Incident, a maritime stand-off between FLEC patrol boats and U.S. ocean surveillance vessel *USNS Impeccable* 120 kilometres off the Hainan Island on March 8, 2009, caused a diplomatic row between Washington and Beijing (Shanker 2009). The incident intensified the mutual distrust concerning China's rapid naval build-up as well as a new U.S. campaign to balance China's increasing military presence in South China Sea (Valencia 2009). In addition to the *Impeccable* Incident, the prolonged 2012 Scarborough standoff between Chinese FLEC and CMS vessels and Philippine Coast Guard boats made the U.S. more suspicious of China's rapid rise. In April 2012, the United States and the Philippines held a joint military exercise off the Palawan coast near the Spratly Islands, a clear signal showing America's effort to offset China (Orendain 2012). The Pentagon's plan to base 60 percent of its naval capacity, including six aircraft carrier battle groups, in the Asia-Pacific theatre before 2020 is also believed to be a countermeasure against China's assertiveness (*BBC News* 2 June 2012; Lam 2012).

The MFA undertakes inconsistent positions on South China Sea disputes as well. This was revealed by the 2010 controversy over labelling South China Sea as China's core interest. This controversy emerged in March when Chinese diplomats told U.S. delegates at a closed-door meeting in Beijing that the Chinese government would not tolerate any interference in the South China Sea, which was part of China's core interest of sovereignty. This is believed to be the first time that the Chinese government labelled South China See as one of its national core interests (Lee 2010; Wong 2010). The story was interpreted in Washington as a Chinese effort to elevate the issue on par with the Taiwan issue which Beijing would seek any possible means to resolve, including war (Storey 2010). Nevertheless, MFA spokesmen later denied that the body had ever made such kind of announcement and claimed that U.S. delegates misinterpreted Chinese officials' comments at the meeting (Swaine 2011). The conflicting positions on the issue of core interest are largely due to some Chinese diplomats' personal efforts to appease those who blame the MFA for acting too softly, not a deliberate plan to disorient Washington.[7] The internal divide in the MFA is clear.

Provincial governments also undertake polices inconsistent with those made by the central government. For example, the Hainan Province government has long been planning to encourage tourism in the disputed Paracel islands so as to boost local economy. The Vietnamese government, another adamant claimant of the Paracel Islands, condemned the Hainan government's plan, which would further complicate the South China Sea situation (*Agence France-Presse* 8 January 2010). Regardless of Hanoi's discontent, Hainan initiated the tourism plan in 2011 and announced in April, 2012 that the islands would soon be open to tourism (*China Review News* 4 April 2012). Nevertheless, Hainan's proposal was immediately denied by the National Tourism Administration which stated that it had not obtained any information regarding the project (*China Review News* 4 April 2012). The Chinese government's inconsistent stances on developing tourism industry in the disputed islands further deepened public distrust of Beijing in Vietnam.

Competing for Bureaucratic Interests

The FA model considers the resources and strategies that provide government organs with leverage in the bargaining process, especially at the ministerial level. As some argue, "to earn more budgetary funds or a higher bureaucratic prestige, Chinese officials like to emphasize the significance of a certain issue which is related to their jobs…….Each government agency can use its own reasons or evidence to support the proposals which can maximize its bureaucratic interests" (Y. Wang 2011, 132-133). In the case of Beijing's South China Sea policy, inter-agency competition is evident at the ministerial level as well. Several examples can be illustrated: the competing maritime law enforcement agencies, the contest between the MFA and CCP Propaganda Department, and the diverse analyses made by Chinese think tanks.

In terms of the competing maritime law enforcement agencies, the primary "competitors" are the CMS and FLEC. The increasing presence of these two maritime law enforcement agencies in disputed waters is motivated by the possibility of gaining budgetary funds and more administrative power. In addition, CMS and FLEC officials have been following a tradition a regarding how to finish their

jobs: "grab what you can on the sea, and then divide the responsibilities between agencies afterwards" (International Crisis Group 2012, 19). Following this logic, they are inclined to more high-profile patrol operations to justify their requests for more budget and power.

One other issue concerning the inter-agency competition between the CMS and FLEC is the proposal of reorganizing China's disjointed maritime law enforcement agencies under one governing body, a solution to the problem of "Five Dragons Stirring up the Sea." Neither the CMS nor FLEC wishes to lose its administrative power should the proposal be put into practice. They both try to take the lead in an enduring bureaucratic competition.[8] To this end, CMS and its superior agency SOA call for the establishment of "Ministry of Oceanic Affairs (MOA)" (*Xinhua News* 5 March 2012). SOA frequently highlights the unstable security environment in the South China Sea region and urges the government to put more resources into its South China Sea campaign through special reports it publishes (State Oceanic Administration 2011; State Oceanic Administration 2010). Meanwhile, senior SOA officials also outspokenly argue for a stronger CMS fleet so as to safeguard China's maritime interests (He 2011). SOA's aims are twofold: justifying CMS operations in disputed waters and supporting MOA advocates.

Although the FLEC and the Ministry of Agriculture do not publish special reports as the SOA does, they do invite journalists to join FLEC's patrol missions in order to earn more support domestically. For instance, the captain of the "FLEC No. 311" patrol vessel welcomed Chinese journalists on board to interview the crew members during the ship's regular patrol mission in South China Sea in October, 2011 (Feng 2011). Another example is the interview with the crew members of the "FLEC No. 46012" patrol vessel (*Xinhua News* 10 July 2011). Stories about how FLEC crew members devoted themselves to safeguard China's interests in South China Sea became excellent materials for advertising the FLEC's image domestically.

On March 10, 2013, the Chinese government launched an institutional reform involving the restructure of the SOA. Under this plan, the SOA will take the overall control of China's maritime law enforcement operations. The FLEC, Maritime Police and GAC will be under SOA's supervision. Additionally, a new government organ, the Maritime Police Bureau (MPB), will be created under the SOA to carry out all the maritime law enforcement operations (*Xinhua News* 10 March 2013). SOA seems to be the primary beneficiary of this institutional reform, which involves not only the restructure of SOA but also the establishment of a new State Oceanic Commission (SOC). According to a government statement, the new established SOC is a high-level consultation and coordination body. It is responsible for formulating oceanic development strategies and coordinating important oceanic affairs (*Xinhua News* 12 March 2013). However, no more detailed information has been provided.

The Chinese government's effort to reorganize its disjointed maritime law enforcement agencies is still far from accomplished. First of all, even though the administrative power of the SOA is enhanced, it is still a sub-ministry agency. Second, no mention is made of whether the MSA, another primary maritime law enforcement agency force with large patrol vessels, will be placed under the

SOA's control. Third, even though the institutional reform was announced, no substantial progress has been made so far. The FLEC and MSA are still individually sending patrol vessels in South China Sea (*Manila Standard Today* 23 March 2013). The exact administrative level of the proposed SOC is still unclear and who should be included in the commission remains unknown. As some note, the plan to establish SOC may be of some help to consolidate the poorly-organized maritime law enforcement mechanism. "Questions remain, however, over the precise authority of the revamped SOA versus the SOC in coordinating Chinese maritime policy and strategy" (Morris 2013, 10).

Another example of the inter-agency competition is an MFA spokesman's comments on American military deployment in Australia. MFA spokesperson Liu Weimin, when commenting on U.S. military deployment in Australia at MFA's daily press conference on November 16, 2011, claimed that "it is worth debating whether strengthening and expanding military alliance is appropriate and consistent with the common aspiration of regional countries and the whole international community" (Ministry of Foreign Affairs of PRC 2011a, n.p.). Mr. Liu's remarks signalled the Chinese government's discontent and mistrust of America's military plans. Nevertheless, on the second day Mr. Liu quickly softened the government's position by stating that "China does not object to the development of normal bilateral relations between countries. We also hope that…… countries will take into consideration the interests of others as well as regional peace and stability" (Ministry of Foreign Affairs of PRC 2011b, n.p.). It is believed that the sudden turn within 24 hours was due to the tense inter-agency competition between the CCP Propaganda Department and too MFA. This is because the MFA felt that taking a hardline position would lead to a domestic perception that the MFA followed the prompts of the media, controlled by the CCP Propaganda Department which urges MFA to have a tougher stance on America's military presence in Asia (Jiang 2011; Qiu 2011). Such a perception may lead to the weakening of the MFA's bureaucratic prestige and administrative power, a consequence Chinese diplomats were unwilling to accept.

Finally, similar to the government organs which compete for bureaucratic interests, Chinese think tanks provide diverse analysis and policy recommendations to the decision-makers based on their institutional preference. For instance, the MFA prefers a more moderate stance in resolving disputes with foreign countries, its subordinate think tanks follow the same baseline. A famous MFA-funded academic institute which brings together senior Chinese diplomats and leading scholars is the Foreign Policy Advisory Group (FPAG).[9] FPAG deals primarily with China's long term foreign and security policy and is believed to have direct access to top leaders (Jakobson and Knox 2010). Concerning the South China Sea disputes, Xu Dunxin, counsellor of FPAG and former Chinese ambassador to Japan, advocates a more moderate solution to shelve the disputes and pursue a win-win situation (*Xinhua News* 23 September 2009). In contrast, scholars in the Institute of Contemporary International Relations (CICIR) and other military-related institutes are inclined to have a tougher stance. For instance, Wei Da, research professor at the Institute of American Studies of CICIR, argues that labelling South China Sea as a core interest is not an arrogant or assertive policy, and it is unwise for regional countries to obstruct China's rise (Wei 2010).

Institutional preferences complicate China's management of the South China Sea disputes. More importantly, the ambiguous policies of the Chinese government regarding South China Sea as China's core interest and whether Beijing will choose only peaceful means to solve the disputes clearly show that these influential think tanks ruffle the decision-making process.

Blossoming Nationalism and the Manipulation of Public Opinion

Whenever there is a maritime clash in South China Sea, nationalist sentiment in China encourages the government to make immediate hardline responses. The 2001 EP-3 incident is an example of the influence of public opinion upon China's South China Sea policy-making. A U.S. Navy EP-3intelligence aircraft and a PLAN J-8 fighter jet met in a mid-air collision about 110 kilometres away from the Hainan Island on April 1, 2001. After the incident there was a powerful anti-American online nationalist campaign (J. Wang 2011). One of China's leading online forums, the "Forum on a Stronger China (*Qiangguo Luntan*)," had more than 800 postings on this issue in the first two days (Lu 2005). A few days later, President Jiang Zemin replaced his previous low-key stance with a tougher tone. President Jiang's change was largely due to growing pressure from Chinese online public opinion, even though he wished to solve this dispute quietly in the beginning (*Epoch Times* 17 May 2001). This incident clearly revealed the predicament which the Chinese leaders faced: on the one hand, they had to pacify the angry Chinese citizens, but on the other hand, they must avoid a full-scale Sino-American confrontation.

Not only have the CCP leaders realized the need to "listen to the Chinese people," Chinese government officials also have learned how to manipulate public opinion to solicit more domestic support. The CCP Propaganda Department and its mouthpiece news agencies are experts in the manipulation of Chinese public opinion. They endeavor to create a more nationalistic domestic atmosphere which can consolidate the legitimacy of the CCP government. Following the 2012 Sino-Philippine Scarborough Standoff, the government mouthpiece newspaper *Global Times* published a series of hardline commentaries on the disputes, arguing that China should not hesitate to take a stronger position against the Philippines.[10] Such a hard-line position has led to a new nationalist campaign urging the Chinese government to adopt more assertive policies to safeguard China's national pride and maritime interest in South China Sea.

The PLA promotes its bureaucratic image domestically as well. For example, in July 2010, three PLAN fleets conducted a joint live-fire exercise in South China Sea. This military exercise, reported as the largest military drill in PLAN's history, included PLAN's most advanced surface warships and submarines, including 051C *Luzhou* destroyers, 052B and 052C *Luyang* destroyers, 054A *Jiangkai* frigates, *Sovremenny* destroyers and *Kilo*-class attack submarines (The International Institute for Strategic Studies 2010). The exercise was intensively reported by the *PLA Daily*, a good way for PLAN to solicit more support from the Chinese people. Even though this exercise was commended by the Chinese people and helped the PLA uphold its domestic image as the guardian of China's interest and pride, it did raise concerns in the region. As Ian Storey argues, this large-scale military exercise was viewed negatively by neighboring countries given that it is an ex-

ample of China's increasingly assertive operations in the South China Sea (Storey, cited in Schearf 2010).

Conclusion

The Fragmented Authoritarianism model examines the disjointed policy process via bureaucratic bargaining and was derived from economic projects in China (Lieberthal 1992; Mertha 2008). It provides an approach to explore the causes of fragmentation in authority between Chinese bureaucratic organs, the incentives of key players in the decision-making process, and the types of resources and strategies that these organs use to bargain with one another. Critics argue that the FA model is applicable only to the decision-making process of economic projects in which national security and ideology issues are not involved. If national security or ideology is involved in a certain policy, the decision-making process should be dominated by the centre with no bargaining power devolved on the subordinate organs (Chao and Tsai 2010).

Nevertheless, this paper finds that the FA model is applicable to key features of the decision-making process of South China Sea policy, a matter of national security and ideology. Although the Chinese government has been concerned with the security significance of the South China Sea region since 2003, China fails to make clear and well-coordinated policies which can properly protect the its maritime interests in this region while accommodating the "peaceful development" rhetoric.[11] China's failure is due to its fragmented decision-making process and intense bureaucratic bargaining. Put simply, the Chinese leaders know that it is a primary task for them to protect the country's maritime interests in South China Sea as well as create a harmonious external environment. However, the fragmented nature of the Chinese political system makes policy outcomes inconsistent.

There are two implications of a fragmented Chinese policy process for regional stability in Asia. First, due to intense bureaucratic bargaining, decisions are usually made at the expense of a comprehensive deliberation. Chinese agencies' assertive operations in South China Sea are not the product of a well-thought out plan. A clear and deliberated policy to expand China's maritime power is unlikely in the near future. Therefore, Beijing's ambitious attempt to break the maritime balance of power in Asia is not as imminent as the realists warn. On the other hand, the lack of functional policy coordinating mechanism also means that in the foreseeable future China will be unable to make consistent policies to manage the South China Sea disputes. More unpredictable maritime clashes might break out in the future. This is a serious issue that regional countries should pay more attention to, especially as China's maritime power is increasing day by day.

Endnotes

[1]   The term "Fragmented Authoritarianism" was first used in a conference on China's bureaucratic practice in Tucson, Arizona, on June 19-23, 1988. For more on this topic, see Lampton 1987; Oksenberg 1982.

[2]   SOA is a sub-ministry agency under the Ministry of Land and Resources.

[3]   CNOOC initiated the research of deep-water drilling in 2006. Five years later, CNOOC launched China's maiden deep-water drilling platform "CNOOC 981" in a sea area 320 km southeast of Hong Kong at a water depth of 1,500 metres. The maximum operating depth is 3,000 metres.

[4]   For instance, The Chinese Institute for International Studies (CIIS) is subordinate to MFA and the Chinese Institute of Contemporary International Relations (CICIR) is associated with Ministry of State Security. CICIR is also believed to keep close relations with the Chinese military.

[5]   Based on author's survey of Chinese online forums.

[6]   The concept of "harmonious ocean" was firstly proposed by Chinese President Hu Jintao in 2009 when he attended PLAN's naval parade celebrating the 60 anniversary of the Chinese Navy.

[7]   Author's interview in Qingdao, November 21, 2011.

[8]   The first proposal of establishing a centralize government organ to coordinate China's maritime law enforcement operations can be traced back to mid-1990s.

[9]   According to the charter of the institute, the conveners of the institute are the Party Secretary-general of MFA and Deputy Foreign Minister.

[10]   For example, see *Global Times* editorials on April 13, April 24 and May 9.

[11]   In November 2003, Chinese President Hu Jintao firstly expressed his considerable attention to the country's deteriorating maritime security environment in South China Sea and introduced his concern for the so-called "Malacca Dilemma."

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Towards a Modern Context for the Traditional Whaling Songs of Japan

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ABSTRACT

This paper analyzes historical Japanese folk songs to provide cultural perspectives on contemporary Japanese attitudes towards whaling. It reveals the deep connection between whaling and Japanese community identity, and helps to explain the resistance to and rejection of international anti-whaling campaigns, which fail to recognize this significant facet of Japanese culture. This research uses the songs to investigate traditional whaling and its later counterparts, and discusses the role that folk songs might serve in the current whaling debate. The intangible cultural heritage of Japanese whaling includes a body of traditional, local folk songs known as *kujira uta* whose lyrics outline Edo period whaling practices in terms of geography, personnel, techniques and species, and provide insight into cultural attitudes. Content analysis of fifty songs, and comparison with contextual sources, contributes to an understanding of the songs as local affirmations of a wider social, folkloric and spiritual consensus set in an international arena.

KEY WORDS: *Japan, whaling, Edo period, folk-song, heritage, community*

Introduction

Although it is not the only whaling nation, Japan is particularly infamous for its whaling. Tokyo's consistent rejection of the anti-whaling norm draws condemnation from other governments and execration from the overseas public and transnational NGOs. At the same time, the international media are quick to fall back upon stereotypes, while the internet facilitates their entrenchment. In short, Japan's persistence in whaling badly affects its international image.

While international lobbies seek to focus on issues of environment – sustainability of whale populations, and ethics of the treatment of intelligent mammals – the Japanese reaction takes different form. First, at the national scale, many Japanese believe that anti-whaling protest attacks their country's identity. They see *kujira* (whale) as part of their traditional fish-based diet and, so, part of Japan's 'unique culinary culture'. By extension, anti-whaling arguments are felt to vilify Japan's traditions and relationship with nature. Many Japanese view protests against Japanese whaling as cultural imperialism or racism.[1] At its most extreme, the anti-whaling movement nourishes this contention, for example by harking back to *samurai* and World War II, and Hirata has described how such 'shaming campaigns' may serve only to strengthen the resolve of the Japanese public and policy makers.[2] Second, at a much smaller scale but more acute, the whaling issue directly affects individuals, families and communities in small coastal towns and villages for whom livelihood and identity are not matters of rhetoric. Their customary trials and tribulations are certainly not allayed by the whaling ban, but neither are they eased by the image brought to bear on them by the controversy as they try to cultivate alternative industries such as tourism.[3]

It is not difficult to find whale meat on a restaurant menu or in a supermarket in Japan. It is available in cans, as dried blubber, and as vacuum packed 'whale-bacon,' and offered raw or cooked in restaurants of all classes. This is the

most widely cited evidence of 'traditional whale culture' in Japan, but what other evidence is there and what does this evidence amount to?

At March 2011 there were at least ten specialist whaling-related museum collections in Japan – three of those were destroyed or damaged by the tsunami of the Great East Japan Earthquake, or Tōhoku Disaster. In addition to relics and equipment from the industry itself, tangible artifacts include archaeological finds, books, scrolls, screens, wood block prints, pottery, textiles and religious paraphernalia, that document, commemorate or celebrate whales and whaling in a heritage setting. Recently, cute designs on pocket-handkerchiefs, mobile phone straps and so forth, enable modern consumers to put their money where their mouth is and demonstrate their fond regard for whales. Antique or contemporary, each object, offers insight into Japan's relationship with the whale, past and present.

However, there is also an intangible heritage. The current existence of at least thirty-nine annual whaling festivals at twenty Japanese towns indicates that non-material cultural products of whaling, in the form of songs, dances, music and rituals, are also valued. A number of these towns were also affected by the tsunami and, in the recovery effort, the continuation of festivals was an early focus of energies in order to boost community spirit. Insofar as the survival of tangible artifacts is contingent on nature or zeitgeist, the intangible is less ephemeral. In this sense, traditional folk songs, with neither physical substance nor material value, may be regarded as one of the more enduring cultural products of whaling. Furthermore, there may be information conveyed by the study of folk songs that it is not possible to deduce from other cultural products.

This paper explores the information on historical whaling contained in Japanese folk songs from the Edo period. In doing so it draws on socio-musical heritage to illuminate the present day. Can these songs offer any alternatives to the current manner in which ordinary people, both within and outside Japan, approach the contentious matter of whaling?

Japanese whaling songs (*kujira uta*) form a small subset of the Japanese *min'yō* folk-song genre. The corpus discussed in this paper consists of fifty hand-harpoon and net-method whaling songs, from nine prefectures, purported to have been handed down from the Edo, or Tokugawa, period (1603-1868). The songs are not well known in Japan.[4] They are obtained from a personal collection derived from a variety of sources: oral tradition, manuscripts, picture scrolls (*emakimono*), folding screens (*byōbu*) and other items in museums and private collections. A number of the songs have been supplied by folk music preservation societies (*hozonkai*) and are currently performed at festivals (*matsuri*) devoted specifically to whales and whaling or to the general perpetuation of folk traditions.[5] The songs are sung in a variety of ways, by individuals and groups, often in a call-and-response format, sometimes accompanied by drums, shamisen, or other instruments. This paper does not address arrangement or musical theory in the songs but rather focuses on the lyrical content.

Historical Background

Japanese whaling may be viewed as taking place within three broad historical eras: an early 'passive' period, of beached and drift whaling, a pre-modern

period, of active coastal whaling initially with hand-harpoons later augmented with nets and organized teams, and a modern period of increasingly sophisticated technology. Very simplistically, these pertain to a period from ancient to pre-Edo times, the Edo period (1603-1868), and the late 19th century onwards, although there is some overlap.[6] The kujira uta folk songs pertain to the middle, or pre-modern, Edo period and are believed to be authentic.

The earliest records of whaling in ancient Japan indicate that beached or drifting (ailing or dead) whales were seen as a 'gift of the gods' worthy of respect and gratitude. Such 'auspicious events' appear in the ancient Ainu ballads (*yukar*), and also in Ainu *rimse* (festival dancing songs) and folk tales. The following extract from Miura's translation of the Ainu ballad 'The Song That Was Sung and Danced by Dolphine' indicates that it was considered bad luck and disrespectful to the gods not to utilize a beached whale,

> As my little babies / Cried and fretted / Craving for food, / I went to the shore / Of the village / Of Pahlyonna. / But . . . / At the villagers / This Pahlyonna / Yelled and said: / The God of the Sea / Has been washed up here. / Ugly women / Cover him with dust. / So / I left the village / And went to the shore / Of the village / Of Yeiresp. / With much respect / Yeiresp bowed low / And said thus: / The God of the Sea / Has made a visit with us. / Villagers / Bring to the God / Sake, / Sacred wooden symbols, / Dried fish, to present. / Thus / I returned / With loads of good gifts / And good foods / To my babies. / Those gifts pleased / My kinsmen also. / Thus / One day / I caught and sent / An ill whale having diarrhea / To the shore / Of the Pahlyonna's village; / And also sent / A fat whale / To the shore / Of the Yeiresp's village. / Pahlyonna ate with his villagers / The ill whale that gave them diarrhea / And they all died; / Yeiresp ate with his villagers / The fat whale / And they are living / A happy life.[7]

Etter's records of Ainu culture collected in 1949 seem to suggest that, alongside 20th century whaling techniques, such whale-related folktales and lore persisted in living oral tradition.[8] Scholars cite various instances of transition from passive to active whaling: harpoons found in Jomon shell mounds have been taken to indicate the hunting of small cetaceans 10,000-300 BC;[9] twelve haiku among the 4th-8th century poems of the Manyōshū allude to isana tori (the taking of 'the brave fish'); there is 'other evidence' of active whaling from 12th century, and by around the late 16th century active hand-harpoon whaling was commonplace in Japanese whaling areas.[10]

Taiji-cho in Wakayama prefecture and Kayoi in Yamaguchi prefecture are purported to have pioneered techniques that increased the effectiveness of hand-harpoon whaling and then spread to other whaling areas.[11] First, in 1606, the third year of the Edo period, came the introduction of large scale whaling, in the form of a group organized by Wada Kakuemon to hunt baleen whales such as humpbacks and right whales. This technique spread from Taiji throughout South-west Japan. Secondly, in the early 1670s, a new method, *amikake-tsukitori-shiki-hogei* or *amitori-ho* added nets to the hand-harpoon method. This technique gradually spread to other areas too, and persists in relic form in smaller cetacean fishing today.[12]

During the Meiji period (1868-1912) traditional-style coastal hand-harpoon and net whaling began to decline. There was apparent depletion of stocks, purported to be due to foreign (US, French, British) whaling in the Japan ground since the 1820s, such that in-shore methods could not secure enough catch to warrant the maintenance of infrastructure. Then in 1878, a major incident at Taiji

spotlighted the risks of the old methods in the new climate. A dearth of catch led to conflict over whether to go after a taboo whale and calf that had been spotted off shore. Eventually boats did go out and harpooned the whale but it survived its injury only to drag ships and crew far out to sea where 111 whalers perished.[13] Under the intertwined pressures of competition, technology and increasing risk, some areas simply ceased active whaling.

In other areas new methods succeeded the old, or enabled whaling to begin for the first time. First came the very gradual adoption of the harpoon gun, which had been invented in Norway in 1864 but did not immediately affect Japanese whaling practices. According to Morikawa, the most rapid development of Japan's modern commercial whaling industry began in 1899. This sudden acceleration was due to several factors of legal, technical and political confluence: first, the Deep Sea Fisheries Promotion Act was passed in 1898; second, Oka Juro, brought back modern whaling methods from Norway and established what later became the Tōyō Hogei whaling company; third, the five-barreled harpoon gun was introduced in 1904 by Maeda Kenzo.[14] Fourth, a Russian whaling fleet was appropriated from the Russo-Japanese war (1904-05). In 1906, Oka's Tōyō Hogei company established the first modern Japanese whaling stations at various locations, including in Chōshi in Chiba prefecture and Ayukawa in Miyagi prefecture which had not been traditional whaling areas.[15] The building of the Ayukawa whaling station, and of another at Same village in Aomori prefecture in 1911, was vehemently opposed by local fishermen on the grounds that blood and oil runoff from the processing plant would adversely impact local populations of other fish.[16] At Same, whales had not been traditionally fished or eaten but rather venerated as facilitators of sardine fishing.[17]

Japan's first factory ship with on-board processing began operating in 1925, and the first pelagic or deep-sea whaling by Japan commenced with trials in the Antarctic in the 1934-35 season and ventured to the North Pacific 1940-41. After a brief hiatus from 1941-46, due to World War II, Japan recommenced deep sea whaling with US assistance in order to combat post-war nation-wide food shortages. In 1946 whale meat supplied almost half of the scarce animal protein eaten in Japan, and in 1947 whale was the only meat served in school lunches.[18] It remained a leading food source until the early 1960s with whale meat supply peaking in 1962. In terms of numbers, whale kill peaked in 1965 at 26,000 animals, declining to just over 5,000 by 1980. In accordance with the International Whaling Commission (IWC)'s 1982 global moratorium on whaling, Japan officially ceased commercial whaling in 1987.

Currently, Japan conducts two kinds of whaling – pelagic and small type coastal whaling (STCW). The first is 'scientific' or 'research' whaling permitted under Article 8 of the IWC's 1946 International Convention for Regulation of Whaling (ICRW). The private, but government supported, Institute of Cetacean Research (ICR) that conducts these activities is obliged to adhere to a quota annually agreed with the IWC. The second is STCW of smaller cetaceans, such as pilot whales, not covered by the ICRW.

Although the 2011 tsunami damaged some whaling stations in the Tōhoku area, it did not end the industry as some anti-whaling lobbyists had hoped, and the international dispute remains unresolved. At the Annual Meeting of the

International Whaling Commission 2012, Japan was thanked (along with US and Korea) for its "contribution to North Pacific whale populations research." At the same meeting, Japan also "drew attention to violent protest activities against its research vessels in the Southern Ocean" and "reiterated its concern over hardship suffered by its whaling communities since the moratorium."[19]

Methodology and Themes in the Study of Whaling Songs

Content analysis was performed on the lyrics and sources of fifty traditional Japanese whaling songs pertaining to pre-modern whaling in the Edo period.[20] First, the songs were indexed by source prefecture and allocated an identification number, and their precise geographical distribution was mapped.[21] Next, themes emerging from content analysis of the lyrics were counted on a binary system indicating presence or absence of each theme in any given song.[22] Frequency of multiple occurrence within a song was not counted. In order to interpret the geographical distribution and song lyrics, other sources were consulted, including print, artifacts, film footage, and field observations.[23]

Literal, rather than poetic, translations from Japanese to English were made and are provided in the text in order to provide examples. Due to the limited use of pronouns and plurals in Japanese, some assumptions have had to be made in translating. Insertion of an assumed 'we', 'they' or 's' for this purpose is indicated by brackets ( ). Expressions with more than one interpretation in Japanese, for example *komochi-kujira* (a whale-and-calf *or* a pregnant whale), have been left in Japanese to retain their duality.

Song Source Analysis

The geographical distribution of sources indicated the highest representation of songs on the western seaboard (*Saikai*) in the prefectures of (south to north) Nagasaki (22 songs or 44% of songs) and Saga (10%), adjacent to each other on Kyushu Island, and Yamaguchi (20%) on the main island of Honshu. Other sources were located on the eastern seaboard, in the prefectures of (south to north) Kōchi (10%) on Shikoku Island, and Wakayama (8%) and Osaka, Chiba, Mie, and Shizuoka (with one song each) on Honshu. On both seaboards a larger representation of songs was clearly observed towards the south.

This distribution may be influenced by the activity and location of hozonkai (preservation societies) and other contributors to the corpus. The collection has some associations with Saga prefecture and is an ongoing project. Nevertheless, the location of sources approximates to documented histories of Japanese whaling, in which Chiba, Wakayama and Kōchi prefectures on the eastern seaboard, and Yamaguchi, Saga and Nagasaki prefectures on the western seaboard, are described as the main 19th century whaling districts.[24] However, the corpus does not contain any songs from Ine in Kyoto prefecture or from Ishikawa prefecture, both of which areas are included in a 1988 map showing stable net whaling 1675-late 19th century, and the reason for this discrepancy is not currently known.[25]

The song source distribution does not extend to locations of later developments such as the large type coastal whaling (LTCW) stations at Ayukawa (est. 1906) and Abashiri (est. 1915), STCW stations at Abashiri, Ayukawa, and Wada, and pelagic and scientific whaling activity in the North Pacific and Antarctic or

Southern Ocean.[26] Proponents of the Japanese whaling tradition have been at pains to point out that, whereas whaling bases and grounds may have shifted northward and expanded to long voyages, many crew and their families from older whaling areas have shifted accordingly.[27] The boats currently involved whaling are also shared between bases. In these ways whalers have been able to continue to pass on skills and knowledge, observing a form of filial piety mores adapted to a modernizing industry.[28]

Lyric Analysis

Themes emerging from content analysis of lyrics were deemed to pertain to two dominant categories: 'attitudes' and 'practice.' Taken at face value, the 'practice' themes appear to provide information on the ways in which whaling was historically carried out. Among the 'practice themes' are matters of geography, personnel, techniques and whale-types. 'Attitude themes' appear to provide information on the spirit in which whaling was conducted or viewed. These pertain to social aspects, religion and lore, and include auspicious motifs. Scores accrued, according to the number of practice- or attitude-related themes songs contained, provide a measure of the 'richness' of each song.

The prevalence of themes in the songs, both as a corpus and individually, is taken as an indication of the role or purpose of the song(s) and as a measure of value in conveying historical information on whaling. Cross-referencing between songs provides pointers to the spread and mobility of the songs, of the attitudes and practices contained within them, and of Japanese whaling as a whole.

As an indication of the general frequency of themes, 48 (96%) of the songs contained one or more practice themes, and 46 (92%) contained one or more attitude themes. There were no songs that contained neither one nor the other, and thus all songs could be deemed informative to some extent. On average, songs featured 4.94 practice themes, and 3.98 attitude themes, an approximate ratio of 5:4. The top-scoring song overall, carrying 5 attitude and 14 practice themes, 19 themes in total, was *Mawari no Kujira-gumi Uta* (Mawari Whaling Team song) from Tsushima, Nagasaki prefecture. This was also the top-scoring song in the practice category.[29] The top-scoring song in the attitude category was *Rokuro-maki no Uta* (a pulley-winding song) from Shinkami-gotō-cho, Minami Matsu-ura, Nagasaki prefecture, which carried 12 attitude themes.[30]

Practice themes were categorized into: techniques (found in 84% of all songs), whale-types (78%), proper nouns as locators (72%), and personnel (54%). Attitude-related themes were categorized as: symbols of good fortune (found in 62% of all songs), celebration (60%), prosperity (56%), and veneration of the whale or associated deities (52%). These themes are discussed in further detail below. Rather than deal with the themes in order of magnitude, they are presented in an order that facilitates the narrative for the reader.

Proper Nouns as Place Locators

In an attempt to ascertain the geographical specificity of the songs, proper nouns were counted and compared to source locations. The proper nouns found included town names, appearing in 30 (60%) of the songs, of which 11 (22% of all songs)

named the whaling team of a specific town. 15 songs (30%) mentioned *Sangoku* ('The Three Countries'), and 7 (14%) named a specific shrine.

Comparing proper nouns to the listed source for each song, it was found that not all corresponded geographically. For example, all of the songs naming shrines name Ise Jingu shrine situated in Mie prefecture. Among these were songs sourced from Wakayama, south of Mie, and from Nagasaki prefecture on the opposing seaboard. Some songs named two distant shrines. For example, in *Kujira-tori Sen Myōjin Maru no Uta* (Myōjin Maru whaling boat song) from Minaminaya-cho, Yokkaichi, Mie prefecture,[31] together with Ise Jingu, a second shrine, Atsuta Jingu, located in Nagoya, is mentioned. Ise Jingu and Atsuta Jingu are considered the most important shrines in Japan and their proliferation in the songs invites two possible interpretations: either, the songs connect to a network of dispersed religious sites or, the songs have migrated retaining their original local referents. Both of these possibilities suggest that conventions in whaling ritual were shared between whaling communities. This sharing might be the result of consensus and/or the movement (seasonal or otherwise) or personnel.

This idea is supported by a broader location theme in the songs: the position in *Sangoku* (the three countries) mentioned in 30% of the songs. In the Edo period, India, China and Japan represented the Japanese conception of 'the world.' 15 songs proclaim the whalers to be '*Sangoku-ichi!*' ('best in the three countries!' or perhaps 'world champions!'). It is not clear whether the inferred 'we' refers to 'this, our local whaling team' or 'we Japanese whalers all' but, whichever, they appear consensual in their awareness of their part, and perhaps competition, in a larger whole including 'others' outside Japan. Given subsequent globalization, it is interesting to contemplate this broader context already influencing Japanese whalers in Edo times.

The richest example of geographically specific labeling in songs was the *Denchū Odori* (Denchū dance), from Shingū-shi, Miwasaki, in Wakayama prefecture, which scored on four of the five counts (town, team, individual, shrine and Sangoku),

> Miwasaki whaling team harpooned and caught both the whale and calf,
> Putting the thick rope to the front pulley,
> And busily winding up the huge right-whale.
> The team of our master is flourishing. May our master thrive forever…
> The boats arrived in Gokasho-Bay. Now let's go to Ise Shrine.
> SORYA! We are No. 1 in the one..two..three countries![32]

Gokasho Bay is near Ise Shrine in Mie prefecture, so this song indicates that the Shingū team's boats made their way to the neighboring prefecture.

Personnel

In a socially oriented study it would be useful to know who and what kind of person was involved in whaling. The Japanese language presents a major challenge in this regard, since an implied 'we' is not specified in Japanese. Thus, those responsible for most action in the songs cannot be clearly identified or tallied, so workers and celebrators, whalers and local community members, are doubtless under-represented in the count of personnel in the song lyrics. However, other personnel are clearly indicated in 27 (54%) of the songs. The principal

master, the *danna* (appearing in 24 [48%] of the songs) owned both the fleet and the *naya* (workshed) which is in turn managed by the *bettō* (workshed manager), mentioned in 2 songs. The *oyaji* (father figure or captain of the team) (3 songs) led the catch from the lead-boat. The *kumi* (team), whose members appear to have acted as both catchers at sea and flensers on land, appear 10 songs. Only the *hazashi* (harpooner) (5 songs) is clearly designated by his task. The always respectful acknowledgement of the danna, for example "may our master thrive forever" quoted in the *Denchū Odori* above, suggests that one function of the songs is to pay respect to superiors. Hughes provides examples of other Japanese folk song genres in which similar praises appear, apparently sung to patrons in the hope of being rewarded with cash or comestibles.[33]

Techniques

Better represented than either geography or personnel are 'techniques,' one or more of which appear in 42 (84%) of the songs. The principal techniques, in order of frequency in songs are pulley-winding (*rokuro-maki*) (appearing in 19 songs), throwing of nets (19 songs), worksheds (*naya*) (17) (including flensing [3]), harpooning (9), boats (9) (incl. leader-boats (3) and catcher-boats [3]), and hill-top lookout (*yamami*) (8 songs). The three higher counts in this ranking, pulley winding, worksheds and throwing nets, are jobs of high labor intensity at sea or high public visibility on shore. In this sense the songs appear socially inclusive and community orientated.

The following song extract shows that the response to a whale-sighting was a highly coordinated and labor intensive business,

> Then [Kametani-san, the whaling-team leader]
> With the senior [workshed] manager
> Climbs the Terasaki lookout-hill.
> With a telescope, they look in all four directions
> 'Til they spot a komochi-kujira off-shore.
> On spotting, they raise the banner
> All the thirty-six ships go out …[34]

A hill-top look-out (*yamami*) kept watch and, upon sighting a whale, raised a straw-matting banner (*toma*) to summon the whalers. It is not apparent from the song corpus that such numbers of ships were consistently widespread, and this raises a question as to whether the songs all pertain to the same techniques and chronology.

In the following song a banner (*zai*) is raised on the master's boat to summon net-boats to close in on the prey, and two further banners are used: one to summon nets and another to signify a successful catch to onlookers.

> Let the leader's ship pull into the center.
> The komochi-kujira is coming down towards us.
> Raising and waving the banner IYO! and summoning the net,
> The net is eight layers and its sides are two layers.
> All the hand-nets in the sea form one layer.
> Up goes the banner that signals (they've) got a whale…[35]

Another song shows the process of roping-up the whale, involving the harpooner diving into the sea to tie the whale to two catcher boats.

> Then the komochi-kujira is under the net.
> Throwing harpoons
> The harpooner dives into the sea to put the rope around the whale,
> And quickly ties the rope to the newly built twin catcher-boats.[36]

Catcher boats row the tied whale towards the worksched(s) (naya) onshore where flensing and trying-out (oil extraction) is to take place.

> IYŌ! To the inlet of Kayoi, IYA! when ordered to row,
> (We) have to row the boat, SĀ-YOI-YA-SĀ!
> IYŌ! To the pulley(s) at the worksched(s) on the shore…[37]

It is at the workscheds that job-specific work songs come into play, accompanying heavy and labor-intensive tasks of winching, flensing and bone-cutting. In larger operations there may be a division of labor between several workscheds.[38] The following extract is from the Shinkami-gotō-cho, Nagasaki prefecture pulley-winding song,

> YATTO SĒ YATTO SĒ!
> In the sea (we) catch the whale, and on the beach (we) cut up the whale YOI! YOI!
> The master in the worksched counts the money SO!
> YŌI TŌ SORA! (We) wind it round. SORA! (We) have wound it round.
> YATTO SĒ! YATTO SĒ![39]

In spite of its different location and work-role, the following Saga prefecture bone-cutting song shows undeniable similarities,

> ĀH! (We) catch the whale, SŌ-RAI!
> And cut up the whale on the beach.
> The master in the worksched counts the money. SŌ-RAI!
> ĀH! The master, in the worksched,
> The master in the worksched counts the money. SŌ-RAI!
> ĀH! (We) cut well. (We) cut well.[40]

There are many other examples of similarities between songs from different regions. For example, the Shinkami-gotō-cho, Nagasaki prefecture pulley-winding song above is also similar to another pulley-winding song from Ogawa-shima in Saga prefecture,[41] and also to a Saga whalebone-cutting song.[42] The following Nagasaki net-tying song, also from Shinkami-gotō-cho, shares its azalea and camellia emblems with the Ogawa-shima pulley-winding song above and with a Mie celebration song.[43] Its emblems of longevity also appear in a Nagasaki celebration song.[44]

> Ā! Azalea and camellia. NĀ-Ē!
> HŌ-RA-Ē-YĀ-YA-Ē!
> Shine on the Nokubi sea.
> HŌ-RA-Ē-YĀ-YA-Ē!
> A humpback whale with its calf,
> It shines on the worksched.
> May our parents live to be a hundred years old.
> HŌ-RA-Ē-YĀ-YA-Ē!

May our children live to be ninety-nine years old.
May our grandchildren live until their hair turns grey.
HŌ-RA-Ē-YĀ-YA-Ē![45]

Besides regional sharing, several other features emerge from the work songs. Firstly, they appear to be constituted into different categories of work song principally by their form (refrains etc.) and not by distinct sentiments in the verses: except for their task-specific structure, there is little to distinguish one from another, or indeed from the celebration songs. Secondly, these work songs do not narrate the work in detail but rather allude to the work against a broader foil. Thirdly, the products (such as meat, oil and bone) go largely unmentioned.[46] All these observations point to a purpose in these songs other than a simple accompaniment or commemoration of industry.

Species

Of the 39 songs (78%) mentioning whales, 30 songs specify species, whereas in 9 songs the species is unspecified. Five whale species are indicated: *semi kujira* (right-whale) (24 songs [48%]), *zatou kujira* (humpback) (7 [14%]), *tsuchi kujira* (Baird's beaked whale) (3 [6%]) and *nagasu kujira* (fin whale) (2 [4%]). The most often mentioned species, the right whale, was the easiest to catch by hand-harpoon method since it moves slowly and floats after death. However, in the following case a humpback is preferred by virtue of its size,

> How wonderful the net of Kayoi [whaling team]
> In it a huge right-whale leans over
> [to right-whale] "Do not lean over on our rope this year.
> For [this year we can hunt] a huge humpback".[47]

Of greater prevalence in songs than the right-whale, is the *komochi kujira* (whale with calf or pregnant whale) which appears in 25 (50%) of the songs (of these, 5 are of unspecified species) as opposed to lone adult whales (19 [38%]). The following song from Kōchi prefecture indicates that a *komochi* right-whale was highly valued after a dearth of catch,

> (We are) the greatest in Sangoku, (we) have caught a komochi kujira.
> (We) did it! (We) did it! (We) have done well for tomorrow!
> (We) have caught a huge right-whale!
> IYA! The prosperity of the whaling team, after a long interval,
> Is the fish that comes with its child.[48]

The prevalence of this emblem in the songs appears to go against the literature in which komochi-kujira kills are indicated as taboo.[49] Regional or temporal variance may account for this inconsistency. Alternatively, perhaps in spite of their prevalence in the songs, such kills were not a common occurrence but appear in the songs for another reason.[50] The fact that several songs indicate that the capture of a *komochi-kujira* warrants a trip to Ise shrine:

> Having harpooned the komochi right-whale
> We shall go to Ise shrine for prayer.[51]

Along with the taboo, and the jubilation after a dearth, the lyrics suggest that periods of scarcity were not uncommon.

The whale types appearing in the songs differ from those hunted in later whaling. According to a recent Japanese government white paper, whales hunted between 1903-1981 included blue whale, sei whale, and minke, which do not appear in the traditional songs.[52] Whales appearing in the songs and not mentioned in the white paper include Baird's beaked whale and right whale. Fin whale and humpback appear both in the songs and in the white paper. More recently, Japanese whaling has targeted minke, Bryde's, sperm whales, sei, and pilot whales, none of which are named in the traditional songs.[53]

Fortune Symbols

Let us turn now to 'attitude' themes, of which the most widespread is symbols of luck and good fortune, appearing in 31 (62%) of the songs. These auspicious symbols not only invoke 'fortune' but illustrate and celebrate it, since whales themselves were considered lucky. A small number of fortune symbols are man-made items (appearing in 6 songs [12%]), but much more frequently the emblems are drawn from nature (27 songs [54%]). Auspicious plants such as pine (17 songs), bamboo (11), and azalea and camellia (3) that together "shine on the worshed" contribute imagery of health, wealth and longevity to both work and celebration songs.[54] Animals such as the crane (*tsuru*) (9 songs) and turtle or tortoise (*kame*) (7 songs) represent longevity and prosperity. The following typical celebration song, carrying these images in quick succession between chorused refrains (*kakegoe*), forms a charm-like chant, which, looking to both past and future, is both celebratory and votive.

> (We) celebrate this auspicious event SĀ-YOI-YA-SĀ!
> Oh god SAI-YO! of the young pine tree SĀ-YOI, SĀ-YOI-YA-SĀ!
> Branches grow YOI-YA-SĀ! and leaves thrive
> SORYA! We are happy this year SĀ-YOI-YA-SĀ!
> Our dreams SAI-YO! come true SĀ-YOI! SĀ-YOI-YA-SĀ!
> The future is cranes and turtles YOI-YA-SĀ! and five-leaf pines.
> SORYA! (We) want to be bamboo SĀ-YOI-YA-SĀ!
> The mountain SAIYO! bamboo SĀ-YOI, SĀ-YOI-YA-SĀ!
> The bamboo that signifies the thriving of our worshed-master.
> SORYA! one, and another one
> Let's celebrate and may this year be fortunate! HAIYA-OI![55]

Man-made fortune symbols are less frequent, occurring mainly in the two major western seaboard whaling areas of Yamaguchi and Nagasaki prefectures. They feature gold - for health, wealth and comfort, its kanji synonymous with money - or golden items (4 songs); the auspicious and celebratory color red (2 songs); and the *tsuchi* (lucky hammer) evoking the Baird's beaked whale through homophony (1 song). Natural or man-made, the presence of fortune themes imparts a votive or auspicious tone to nearly two-thirds of the songs, drawing on a lexicon of widely understood imagery and tokens also found in other Japanese folk songs.

Celebration

Six of the fifty songs are clearly designated as celebration songs (iwai) by their titles. Of these, five, including one celebrating house construction and another celebrating a newly built ship, are from Nagasaki prefecture, and one from Yama-guchi prefecture.[56] However, the declaration '*iwaimedeta!*' (let us celebrate!) and variants, along with other celebratory expressions, such as *kichijitsu* (auspicious day) and *ureshi* (elation), occur in just over half of the corpus (27 songs [54%]). Furthermore, there are other lyrical indications of festivities including dancing (6 songs), drinking sake (5), flocking to the beach to see the whale (3), music (2), and song (1),

> …Drink, Daikoku! Sing Ebisu! YOI! YOI!
> The sake-server in the middle! Oh the fortune gods![57]

All in all, one or more of these celebratory themes occurs in 30 (60%) of the 50 songs, making a substantial proportion of the corpus celebratory if not in name then certainly in content. These songs display many points in common with non-whaling celebration folk songs, for example the song *Yoshikawa zenze no ko*, of the Furukawa drum festival, which hails from the inland prefecture of Gifu in central Japan, suggesting that whaling songs have not developed in isolation from the wider folk song genre.[58]

Prosperity

A similar proportion, 28 (56%) of the 50 songs, features declarations alluding to prosperity, such as *sakaeru* (to thrive or flourish). These declarations are focused largely (i.e., in 18 songs) on the *danna*, *oyaji* and *bettō*, that is, *senpai* or persons superior to the singers. Dramatically fewer songs eye the prosperity of the whaling team members themselves (3 songs), their kin (3) and surrounding villages (3). It may be gracious to honor superiors, or expedient to sing for their prosperity, perhaps in the hope of receiving gifts or benevolent treatment in return. In the following extract lies an indication of conflict in the industry and of the mutual dependence of social strata.

> …Like crows, people steal pieces of meat.
> Then the manager starts to speak,
> Do not hit, do not punch, do not slap (them)
> If you punish the people, (they) can't catch whales.[59]

A small number of songs refer to an opulent lifestyle including golden objects or bountiful supplies of rice and anchovies but in general, precise details of the prosperity are not given.[60] Six songs sing of a vague 'prosperity tomorrow' and Akamichi et al. have detailed a complex system of gift exchange surrounding whaling.[61]

Veneration

A final notable feature in the songs is a religious or folkloric sacred positioning of the whale, specific in the lyrics of 26 (52%) of the songs. A breakdown of veneration themes is: blessings (19 songs), shrines (7), gods (Ebisu (7), Benzaiten (2), Daikoku (2)), and the whale as a monk (1). The whale is frequently invested

with some form of sanctity, ranging from a *rishō* (gift or blessing) from the god(s) to the very incarnation of a deity or a monk. Ebisu, Benzaiten and Daikoku are three of the seven lucky gods of fortune (*shichifukujin*) who are commonly depicted in a 'treasure ship' (*takarabune*). Ebisu is considered to be incarnate in the whale and, according to Taki's sources, "visit[s] occasionally from the distant sea and bring[s] fortune to people".[62] In common belief, Ebisu is the god of occupations, particularly associated with fishing, and is often depicted carrying a fishing rod and sea bream. He is traditionally said to be hard of hearing and "devotees often bang on his shrine before reciting their prayers."[63] This image is reflected in the banging of boats at the Taiji dolphin hunt and in the *kinuta* (fulling block or mallet) dances among the Taiji whaling songs.[64] In a similar percussive image, Daikoku, god of wealth, carries a *tsuchi* (lucky hammer) for granting wishes, permitting the word play in which the *tsuchi kujira* (Baird's beaked whale)'s arrival is a wish-come-true. The third fortune god mentioned, Benzaiten, represents all that flows, including wealth and water. The following eponymous song from Nagasaki prefecture carries such images:

> (We) celebrate the beach of Benzaiten
> SĀ! The beach of Benzaiten.
> On the beach are seven beaches (sic) and seven Ebisu;
> Gift of the gods of Ise-shrine…[65]

From these examples, it may be deduced that a catch is received with conscious gratitude to the gods, born out in ritual acknowledgement. Seven songs named shrines, often a great distance away, as discussed above. Taki describes not only thanks at existing shrines but also the construction of ad hoc shrines for the repose of the soul of the caught whale, graves for fetuses found in the belly of a catch, and also the contribution of a percentage of catch proceeds to shrines.[66] These shrines and graves have not been neglected as time has passed. Kato and others have gathered examples of continued devotion at historical shrines and temples, the continued construction of whale tombs into the 20th century, new monuments for whales caught in more recent times, and also of memorial services held for whales that have recently died.[67] Other evidence suggests that the songs reflect some more widely held attitudes in terms of the rituals surrounding the death and taking of animals.[68] At least some of the attitudes and rites found in whaling communities may have counterparts in other industries elsewhere in Japan.[69]

Japan has criticized Western anti-whaling sentiment as hypocritical in light of other animal husbandry and hunting. Japan also accuses the West of anthropomorphizing of whales, and of emotional hysteria. It is a matter for future research whether Western behavior has not some secular parallels to Japan's deification. The argument would rest on whether Japan, like the West, accorded particular status to the whale, or simply treated it as part of a consistent spiritual relationship with nature.

General Discussion

According to the binary count of themes revealed by content analysis, a slight majority of the song corpus is more concerned with practice than with attitudes.

However, the attitude themes focus largely on spiritual matters, with over half of songs containing references to veneration of whales and associated deities. Furthermore, with so many symbols of good fortune, ritual and celebration, many of which are not unique to whaling, this whaling practice is clearly enmeshed in a wider consensual web of cultural attitudes and mores. Even among the practice themes, there is a disproportionate focus on the komochi-kujira, which, if it were taboo or uncommon, implies that the songs serve a more symbolic than narrative purpose.

There are many aspects of traditional whaling not conveyed by these songs. Cross-referencing with literature and artworks, these aspects become conspicuous by their absence. Major omissions include the struggle involved in taking a catch, frequent failure, products and by-products, visual aspects such as the painting on whaleboats, and the sheer numbers of boats and people involved.[70] Screens and scrolls depict elaborate, bright paintings on the whaleboats and large numbers of boats and workers in formation – it must have been a spectacular and dramatic sight – but the songs say nothing of it.[71] When they were sung in context, that is, in pre-whaling preparation and in celebration, the environment served as a supplement to the lyrical expression and vice-versa.

For another frame of reference it is useful to look at Western whaling songs of the same period. Comparing with the oldest known British/American sea-shanty 'The Greenland Whale Fishery' for example, it is clear that the Japanese songs are not songs of long voyages and long absence.[72] It is not, therefore, surprising that they do not depict the hardships of long distances and separation. However, neither are the Japanese songs narratives of their own specific difficulties or disasters: boats are not named, there are no cruel ships captains, no dates, no storms, no eulogies. Since we know that there were indeed such events in Japanese whaling, then we can see that the songs simply did not take them as subjects but rather took a different focus, born of a different intent and purpose.[73] I deduce that these songs are not *about* whaling so much as *for* and *towards* it, codifying the process in a specifically rarified form. Rather than narrating, as Western shanties commonly do, the kujira uta appear more akin to hymns, honoring, acknowledging and praying.[74]

This brings us to consider a possible role for these songs now. No doubt, their original context, in the form of archaic practices, is obsolete. However, from the very fact of the preservation of these songs since the Edo period, we also know that this aspect of history has been, and remains, valued by at least a few. Indeed many of these songs now survive on the very account of their functional obsolescence, treasured by museums, preserved by hozonkai. Their sources are so varied, that this cannot be described as an unbroken living tradition, nonetheless, it is a revivable one.

In the present climate, there is renewed awareness of historical whaling culture.[75] In recent decades, there have been some new songs discovered, and significant artworks uncovered.[76] Prior to the tsunami of 2011 there were at least ten specialist whaling-related museum collections in Japan, of which, only one, *Taiji Cho Ritsu Kujira no Hakubutsukan* (Taiji-cho municipal whale museum) established in 1969, appears to predate the moratorium. Three were established in the 1980s and 90s in towns associated not with traditional but with modern

whaling.[77] These three museums were damaged or destroyed in the tsunami and their communities have not yet recovered. As for whaling festivals, where dates are available, they indicate that, of the thirty-nine annual events, eleven were initiated post-war, of which, four were started or revived post-moratorium. One involves the recent addition of a 'whale float' to an existing festival.[78] Rather than isolating the songs as music, performance in symbolic re-enactment of traditional whaling provides the most rich and authentic environment for the songs in the present. As vehicles of celebration and retrospection, if supplemented by education and well-informed critique aimed at local, wider domestic and international audiences, the songs could serve to boost both the economy and identity of historic whaling communities.

The integrity of these songs' lyrics as historical cultural signifiers rests upon their authenticity. In so far as the corpus is believed to be authentic and contemporary with Edo period in-shore whaling it appears to shed light on many aspects of cultural heritage by virtue of both content and omission. I have treated the corpus as a whole, and have not yet sought to investigate chronological variations but it seems not unlikely that these songs are from various dates and stages of whaling. Nor have I gone deeply into the geographical patterns of similarity, but it looks not unlikely that some may be compounds or adaptations of others. If any of the songs transpires to be a later composition or an assemblage, that in itself will prove informative. It does seem, however, that, since these songs are similar to other folk songs and not concerned with products or money but rather with work and prayer, their purpose was not so much to serve the industry but to support the people.

Conclusion

In response to the ongoing international whaling controversy, this paper has attempted to investigate Japan's cultural heritage by means of folk song. The Edo period whaling songs give a rich, if incomplete, illustration of a historical whaling culture in Japan and show that, in the Edo period, a limited number of small coastal communities practiced whaling and were linked via labor mobility. Although its geography has shifted, a similar degree of isolation, at even fewer locations, linked by their industry, exists in Japanese whaling today. The songs provide an outline of some of the social, spiritual and folkloric attitudes associated with whaling which, contextual analysis shows, were not entirely unique to whaling or to the Edo period.

The individuals and minority interest groups who have preserved these songs have enabled them to be revived in the interests of heritage, contributing to the economy and social identity of whaling and ex-whaling communities. Insofar as they are authentic, these songs may be taken as illustrations of both continuum and distinction and, as such, can contribute to both sides of the whaling debate. Not only can the songs enrich local identities but also they can educate a wider audience, by making local history accessible in a populist manner, leading to interest, understanding and empathy towards transitional livelihoods. Such an approach is currently lacking in anti-whaling strategy, and in international media and public discourse on Japanese whaling.

Viewed alongside both history and the current controversy, the traditional whaling songs of Japan highlight the fact that, globally, humanity's relationship with the environment is in a state of constant flux, perpetually shifting as human needs and desires change, and is always influenced by developments in economics, politics and technology, as well as by changes in the natural world. The current global environmental movement, for which whaling has come to serve as a symbol, faces entrenched obstacles in the form of grass-roots issues in directly affected communities in various parts of the world. Without the development of acceptable alternatives, these issues will persist, and without understanding the origins of these issues, it will be difficult to develop viable alternatives. To facilitate the wider understanding and subsequent potential solution of these issues in the case of Japan, the traditional kujira-uta whaling songs provide both historical information and a potentially valuable contemporary heritage resource.

Endnotes

1   Kalland, Arne and Moeran, Brian. 1992. *Japanese Whaling: End of an Era?* Richmond: Curzon Press.,14.

2   In a commentary on Sea Shepherd website, the then President of the organization, Paul Watson wrote, "From the decapitations of Samurai upon innocent peasants, to the suicidal insanity of the kamikaze, violence and self-destruction have been a part of Japanese culture. / It is this killing - this willful slaughter not just of whales, but also of dolphins on Japanese beaches - that has become almost ritualistic. It is this ritualistic slaughter that is traditional." Source: Watson, Paul (2006) *The Truth about "Traditional" Japanese Whaling*. [Online] Available at: http://www.seashepherd.org/commentary-and-editorials/2008/10/30/the-truth-about-traditional-japanese-whaling-375. Accessed 24 July 2010. Shaming campaigns and Japanese resolve in: Hirata, Keiko (2005) 'Why Japan Supports Whaling'. *Journal of International Wildlife Law & Policy*, vol. 8, 1-21, Concl.

3   Kalland and Moeran. Op. cit., 18-42.

4   Nor are they detailed in English language works on Japanese folk songs. In his section on work songs, Hughes notes, "the whalers of Taiji (Wakayama prefecture) celebrated a successful hunt with a powerful dance based loosely on work movements (see Nakai et al. 1972: 119). The lyrics of the accompanying song are not obviously religious… " Hughes, David W. (2008) *Traditional Folk Song in Modern Japan*. Folkestone: Global Oriental, 75.

5   Uemura, Hirokazu (2009) *Nihongo no Sanpo*. [Online] Available at: http://homepage2.nifty.com/ue_room/kujira. Accessed 15 May 2012.

6   Kalland and Moeran cite a drift whale flensed and sold in 1980s, also retrieval of half-flensed carcasses from busy shipping lanes in 1826. Kalland and Moeran. Op. cit., 66.

7   Miura, Kiyoko (no date). *Yukar: Epos of the Ainus: study and translation of Kamuy-Yukara*. [Online] Available at: http://www.sacred-texts.com/shi/ainu/yukara.htm. Accessed 10 Feb 2009. Ch 3.

8   Etter, Carl (1949) *Ainu Folklore: Traditions and Culture of the vanishing Aborigines of Japan*. Chicago: Wilcox & Follett, 164.

9   Kalland and Moeran, Op. cit., 85.

10   Consulate General of Japan (2011) *The Japanese Government's Position on Whaling*. [Online] Available at: http://www.sydney.au.emb-japan.go.jp. Accessed 10 Nov. 2011. Japan Whaling Association (2010) *Chronology of Whaling*. [Online] Available at: http://www.whaling.jp/english/history.html. Accessed 26 Apr. 2012.

11   Akimichi et al. (1988) *Small-Type Coastal Whaling in Japan*. Edmonton: Boreal Institute for Northern Studies, Occasional Paper No. 27, 10.

12   Beneficiaries of the Riches of the Sea and Japan Small-Type Whaling Association (no date). *Development of Japanese Whaling: Origins of LTCW, STCW and Pelagic Whaling*. p.3. [Online] Available at: http://luna.pos.to/whale/gen_coast.html. Accessed 30 June 2012.

13   Kalland and Moeran, Op. cit, 151. A monument to this incident stands on the road overlooking Taiji bay (Field study, May 2013).

14   Ibid., 86.

15   Watanabe, Hiroyuki (2009) *Japan's Whaling: The Politics of Culture in Historical Perspective*. Melbourne: Trans-Pacific Press, 27.

16   Morikawa, Jun (2009) *Whaling in Japan: Power, Politics and Diplomacy*. London: Hurst & Company, 20-22.

17   Ibid., 22.

18   Smil, Vaclav and Kobayashi, Kazuhiko (2012) *Japan's Dietary Transition and Its Impacts*. Cambridge, MA: Massachusetts Institute of Technology, 45.

19   International Whaling Commission (2012) *Chair's Report of the 64th Annual Meeting of the International Whaling Commission, 2–6 July 2012*. [Online] Available at: http://iwc.int/chairs-reports. Accessed 16 March 2013.

[20] Uemura, Hirokazu (2009) *Nihongo no Sanpo*. [Online] Available at: http://homepage2.nifty.com/ue_room/kujira. Accessed 15 May 2012.

[21] For full list see Greenland, Felicity (2011) 'Whaling Songs in Japan as a Reflection of Cultural Practice'. *Journal of the Faculty of Letters, Bukkyo University, Kyoto*, no. 95, 113. Maps presented in Greenland, Felicity (2012b) *Attitudes and Practices in Japanese Traditional Whaling Songs*. Paper presented to International Conference on Asian Studies (ICAS), Colombo, Sri Lanka. (Unpublished) and in Greenland, Felicity (2012c) 'Within and Without: Viewpoints on the Concept of Whaling Community.' Paper presented to Anthropology of Japan in Japan (AJJ) Conference, Kyoto: Doshisha University Institute of Liberal Arts. (Unpublished).

[22] Yano, Christine R. (2002) *Tears of Longing: Nostalgia and the Nation in Japanese Popular Song*. London: Harvard University Press, p. 93.

[23] Field trips to Nakao Residence, Yobuko cho, Saga prefecture (Oct. 2012), Ikitsuki-shima, Nagasaki prefecture (Oct. 2012), Taiji cho (May 2013), Telephone, mail correspondence with Nagato-shi Kyouiku Iinkai (Nagato City Board of Education), (July 2012).

[24] Morikawa, Op. cit., 20.

[25] Maps at Akimichi et al. Op. cit., 17. Ine documented at Akimichi et al. Op. cit., 10.

[26] Ministry of Foreign Affairs of Japan. (no date). *Management of Cetacean Resources: Japan's Request for a Catch of 50 Minke Whales in Its Coastal Waters Is Justifiable*. [Online] Available at: http://www.mofa.go.jp/policy/economy/fishery/whales/iwc/request.html. Accessed 16 May 2012.

[27] Beneficiaries of the Riches of the Sea. Op. cit./ Akimichi et al. Op. cit., 52.

[28] Akimichi et al. Op. cit., 52.

[29] *Mawari no Kujira-gumi Uta* - Mawari Whaling Team Song -Mawari, Toyotama-machi, Tsushima, Nagasaki prefecture (N22) Index allocated to corpus songs reflects prefecture and sequence, see Greenland, Felicity. 2011. 'Whaling Songs in Japan as a Reflection of Cultural Practice'. *Journal of the Faculty of Letters, Bukkyo University, Kyoto*, no. 95, pp. 97-113.

[30] *Rokuro-maki no Uta* (pulley-winding song), Shinkami-gotō-cho, Minami Matsu-ura, Nagasaki prefecture (N12).

[31] *Kujira-tori Sen Myōjin Maru no Uta* (Myōjin Maru whaling boat song), Minaminaya-cho, Yokkaichi, Mie prefecture. (M1).

[32] *Denchū Odori* (Denchū dance), Shingū-shi, Miwasaki, Wakayama prefecture. (W3)

[33] Hughes, David W. 2008. *Traditional Folk Song in Modern Japan*. Folkestone: Global Oriental, 82.

[34] *Mawari no Kujira-gumi Uta* (Mawari Whaling Team song), Nagasaki prefecture. (N22).

[35] *Hazashi Uta* (Harpooner's song), Nagasaki prefecture. (N20).

[36] *Mawari no Kujira-gumi Uta* (Mawari Whaling Team song), Nagasaki prefecture. (N22).

[37] *Asa no Mezame* (waking in the morning), Yamaguchi prefecture. (Y7) A similar verse appears in *Hazashi Uta* (harpooner's song) Katsumoto-ura, Katsumoto-cho, Iki City, Nagasaki prefecture. (N20).

[38] Nakazono, Shigeo and Yasunaga, Hiroshi. 2009. *Kujira Tori E-Monogatari*. Fukuoka: Gen Shobo,180.

[39] *Rokuro-maki no Uta* (pulley-winding song), Shinkami-gotō-cho, Minami Matsu-ura, Nagasaki prefecture. (N12).

[40] *Kujira Hone-kiri Uta* (whalebone-cutting song), Ogawa-shima, Yobuko, Karatsu, Saga prefecture. (SG1).

[41] *Rokuro-makiage Uta* (pulley-winding song), Ogawa-shima, Yobuko, Karatsu, Saga prefecture. (SG2).

[42] *Kujira-hone-kiri Uta* (whalebone cutting song), Ogawa-shima, Yobuko, Karatsu, Saga prefecture. (SG1).

[43] *Kujira-tori Sen Myōjin Maru no Uta* (Myōjin Maru whaling boat song), Minaminaya-cho, Yokkaichi, Mie prefecture. (M1).

[44] *Tsumori* (Tsumori), Moroyoshi, Ashibe-cho, Iki City, Nagasaki prefecture. (N19).

[45] *Ami no Me-shime Uta* (net-tying song), Shinkami-gotō-cho, Minami Matsu-ura, Nagasaki prefecture. (N10).

[46] Other whale products include: oil for insecticide; sinew for musical instruments ex. biwa strings; baleen for crafts and *bunraku* puppets; bones for shamisen plectra in Kalland and Moeran. Op. cit.,70.

[47] *Satemo Migoto* (how wonderful!), Kayoi, Nagato City, Yamaguchi prefecture. (Y4).

[48] *Kujira-bune no Uta* (whaling boat song), Kōchi prefecture. (K1) (Similar expressions are found in K2, Y1 and Y7).

[49] Kato, Kumi (2007) 'Prayers for the Whales: Spirituality and Ethics of a Former whaling Community – Intangible Cultural Heritage of Sustainability'. *International Journal of Cultural Property*, vol. 14, issue 3, 305.

[50] Kalland and Moeran present a tale of a whale and calf hunt in the Gotō Islands, 1715, in which 72 died. Kalland and Moeran. Op. cit., 150.

[51] *Aya Odori* (Aya dance 1), Taiji-cho, Higashimuro-gun, Wakayama prefecture. (W2).

[52] Ministry of Environment (1995) *Quality of the Environment in Japan*. [Online] Available at: http://www.env.go.jp/en/wpaper/1995/eae240000000040.html. Accessed 20 July 2012. Part 3, Fauna, Fig. 5-6-4.

[53] Ministry of Foreign Affairs (2012) *The Position of the Japanese Government on Research Whaling*. [Online] Available at: http://www.mofa.go.jp/policy/q_a/faq6.html. Accessed 20 July 2012.

[54] *Ami no Me-shime Uta* (net-tying song), Shinkami-gotō-cho, Minami Matsu-ura, Nagasaki prefecture. (N10); Rokuro-makiage Uta (pulley-winding song), Ogawa-shima, Yobuko, Karatsu, Saga prefecture. (SG2).

[55] *Iwaimedeta* (celebration), Shinkamigotō-cho, Minami-Matsu-ura gun, Nagasaki prefecture. (N9).

[56] *Iwaimedeta* (celebration) Ikitsuki-cho, Hirado City, Nagasaki prefecture. (N2); *Iwaimedeta*, (celebration) Shinkami-gotō-cho, Minami Matsu-ura, Nagasaki prefecture. (N9); *Iwaimedeta Uta* (celebration song) Moroyoshi, Ashibe cho, Iki City, Nagasaki prefecture. (N13); *Kenchiku Iwai* (house construction celebration), Moroyoshi, Ashibe-cho, Iki City, Nagasaki prefecture. (N15); *Shin zō Sen Iwai* (celebration of newly built ship) Moroyoshi, Ashibe cho, Iki City, Nagasaki prefecture. (N17); *Iwaemedeta* (celebration), Kayoi, Nagato City, Yamaguchi prefecture. (Y3).

[57] *Rokuro-maki no Uta* (pulley-winding song), Shinkami-gotō-cho, Minami-Matsu-ura-gun, Nagasaki prefecture. (N12).

[58] Yoshikawa "Zenze no ko" song: "*Medeta Medeta no Wakamatsu Sama yo* (Let's celebrate the young pine buds coming out) / *Eda mo Sakaeru Ha mo Shigeru* (Its branches and leaves will grow)". Source: Greve, Gabi. (2010) *WKD - Saijiki for Festivals and Ceremonies*. [Online] Available at: http://wkdfestivalsaijiki.blogspot.jp/2011/02/furukawa-drums.html. Accessed 15 May 2013.

[59] *Mawari no Kujira-gumi Uta* (Mawari Whaling Team song), Mawari, Toyotama-machi, Tsushima City, Nagasaki prefecture. (N22).

[60] *Kujira-tori Sen Myōjin Maru no Uta* (Myōjin Maru Whaling Boat Song), Minaminaya-cho, Yokkaichi, Mie prefecture. (M1).

[61] Akimichi et al. detail a non-monetized customary distribution system in Akimichi et al. Op. cit., 2.

[62] Taki, Shuzo (1996) 'Tomb of Whales'. *Isana*, no. 14, 1.

63 Miyamoto, Tsuneichi (2010) *The Forgotten Japanese, Encounters with Rural Life and Folklore*. Berkeley: Stonebridge Press, 307.

64 The Beneficiaries of the Riches of the Sea. Op.cit. *Aya Odori* (Aya dance 1), Taiji-cho, Higashimuro-gun, Wakayama prefecture. (W1); *Aya Odori* (Aya Dance 2), Taiji-cho, Higashimuro-gun, Wakayama prefecture. (W2).

65 *Benzaiten* (Benzaiten), Shinkami-Gotō cho, Minami-Matsu-ura-gun, Nagasaki Prefecture (N5).

66 Taki. Op. cit., 1.

67 Kato. Op. cit., 294, 297, 299, Post-script. Kyodo News Agency (2012) 'Taiji Museum Holds Memorial Service for Dead Whale'. *Japan Times*, Tuesday 3 April.

68 Kenney, Elizabeth (2004) 'Pet Funerals and Animal Graves in Japan'. *Mortality*, vol. 9, no. 1, Feb. pp.42-60.

69 It is common knowledge in Japan that there are graves in Hokkaido for cows and horses, and at Koyasan, Wakayama prefecture, for various animals.

70 Akimichi et al. indicate the net method required 500 or more people, Akimichi et al. Op. cit., 11.

71 Nakazono, Shigeo and Yasunaga, Hiroshi. 2009. *Kujira Tori E-Monogatari*. Fukuoka: Gen Shobo, 188-194.

72 Background in Lloyd, Albert L. (1967) *Leviathan*. London: Topic Records. (Sleeve notes), 6. / Lyrics in Huntington, Gale (2005) *Songs the Whalemen Sang*. Connecticut: Mystic Seaport, 11.

73 Kalland and Moeran. Op. cit, 150-1.

74 Hugill, Stan (1994) *Shanties from the Seven Seas*. Connecticut: Mystic Seaport Museum.

75 Kayoi hozonkai in Nagato-shi, Yamaguchi prefecture teaches local school children how to perform whaling songs. Personal communication, Nagato-shi Kyouiku Iinkai (Nagato City Board of Education), July 2012.

76 'Whaling songs from Ejima in Sakido-cho…[had] been unknown among whale folk art researchers, and came to light when local people presented a report several years ago…' Source: Nakazono, Shigeo (2003) 'Outline of the 2nd Traditional Whaling Summit'. *Isana*, no. 28, Dec., p. 3. A screen depicting a whale by Jakuchu (1716-1800), painted 1795, was discovered in 2008 in a house in Kanazawa City (Source: Miho Museum).

77 Kujira to Umi no Kagakukan, Yamada-cho, Iwate prefecture (1987-); Ayukawa Oshika Whale Land, Ishinomaki City, Miyagi prefecture (1990-); Sea and Shell Museum, Rikutenza-kata.

78 Of 39 festivals currently listed, three began in 1970s; one began in Taiji in 1987; Osaka (Dejima, Sakai) halted 1954 was revived 2006; Mie halted 1962 resumed 1994. Source: *Kujira Bunka: Kujira Matsuri*. 2012. [Online] Available at: http://www.geocities.co.jp/NatureLand-Sky/3011/kujira-maturi-geinou.html. Accessed 19 April 2012.

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Acknowledgements

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Editors' Note

Finally, with this issue, *Asia Pacific Perspectives* introduces a new type of article, one we are calling "Think Piece." This new series will allow contributors to respond to current events and big ideas in the Asia-Pacific region in a shorter, more informal style that integrates personal opinion informed by scholarship and the author's expertise. We hope you will find value in our first "Think Piece."

When the Tide Goes out: Citizen Participation in Japan after the Fukushima Nuclear Disaster

Pablo Figueroa, *Waseda University*

Two hands clap and there is a sound. What is the sound of one hand? (Zen koan)

In October 2011 I wrote, "The Great East Japan Earthquake and ensuing tsunami triggered one of the worst nuclear catastrophes in history. Large ocean waves flooded the Fukushima Daiichi nuclear power plant, a facility run by Tokyo Electric Power Company (TEPCO), causing the loss of all power sources needed to cool down nuclear reactor cores. Unable to operate emergency generators, the facility was left severely crippled and vast amounts of radioactive materials were released into the environment. Half a year after the accident, the Japanese government and TEPCO are still having serious difficulties in bringing the nuclear crisis to an end."[1]

I wish I could say the crisis is over and that the dismantling efforts of the crippled plant along with the recovery of Tohoku are well underway. Sadly, this is not the case. Uncertainty surrounding the long-term consequences of the Fukushima nuclear disaster is ongoing; the cleanup efforts and the rebuilding of Tohoku have proved more difficult than previously estimated. Although the authorities announced in December 2011 that the plant had reached a state of "cold shutdown" (meaning the station is stable and that the release of radioactive materials is under control), many unsettling issues appear unresolved. TEPCO is still struggling at Fukushima Daiichi with lack of space for storing highly contaminated water, storage tanks that leak, recurrent failure in the jerry-rigged reactors' cooling systems, an unknown situation surrounding the nuclear cores, and a sketchy plan to decommission the facility. Most critical is the state of the number 4 reactor (a common storage pool for spent nuclear rods), which may not resist another strong tremor. The building was badly damaged during the nuclear crisis, and concern about the vulnerability of its structure is widespread. Should this fragile building containing the spent nuclear fuel collapse, and the water covering the fuel leak away, there might be explosions, and as a result the amount of radiation released would be massive (It would equal 85 times the amount of Cesium-137 released by Chernobyl). Such a cataclysmic event would

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[1] Figueroa, P. "Risk Communication Surrounding the Fukushima Nuclear Disaster: An Anthropological Approach". *Asia Europe Journal*: vol. 11, issue 1 (2013), 53-64. DOI: 10.1007/s10308-013-0343-9, Springer-Verlag.

lead to the mandatory evacuation of Tokyo metropolitan area (population over 35 million), something inconceivable by definition.[2]

Moreover, Japan's handling of the disaster generated widespread anxiety among its citizens. Due to partial, delayed, and ambiguous information, people grew distrustful of the government's honesty in informing about nuclear risks. For many observers, the Japanese government downplayed the seriousness of the crisis. Society at large lost trust in the nuclear regulatory bodies, the central government, and the nuclear industry.

Welcome to the Risk Society

For the first time in generations, the Japanese people were violently confronted with a tangible nuclear risk, and they felt betrayed: since its inception in 1954, the government repeatedly assured its citizens that nuclear power was safe. A serious accident, so they were told, was not a possibility. Despite the opposition of antinuclear movements in the 1960s and 1970s, which underscored that safety of the construction and operation of nuclear power plants had yet to be proved, the government decided to gear up and implement a national economic development project that relied heavily on nuclear power. By 2011, 54 nuclear reactors accounted for 30% of the total production of electricity in Japan. The government had ambitious plans to expand that share to 50% by 2030.[3] But the Fukushima nuclear disaster and the tsunami brought those aspirations to a halt. Damages to infrastructure, industry, and the local communities were enormous. More than 150,000 people suffered from displacement; social ties among local communities were virtually destroyed. Radiation fears affected thousands, especially the mothers of Fukushima children. Suddenly, nuclear power was not anymore the promised land that many had been led to believe in. People started to realize that splitting atoms could damage their social fabric and ruin the environment for years to come. As one newspaper put it, after Fukushima nuclear power became "the dream that failed."[4]

Antinuclear Renaissance

Following the tragedy, some speculated that the Fukushima nuclear disaster would not have a long-lasting effect on the so-called "nuclear village." In other words, they expected the nuclear industry to come out of this event unscathed. (The nuclear village is famous for being able to shield itself from governmental regulations and public criticism). Others believed this was a unique chance to phase out nuclear energy once and for all. Both views proved overly simplistic.

What the Fukushima nuclear disaster did was to trigger a renaissance of the Japanese antinuclear citizen groups, which had been relatively marginal in recent times. Dozens of antinuclear associations were formed and existing ones

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2   For an extended discussion on the spent nuclear fuel, see Shaun Burnie, Matsumura Akio and Murata Mitsuhei, "The Highest Risk: Problems of Radiation at Reaction Unit 4, Fukushima Daiichi," *The Asia- Pacific Journal*, vol. 10, issue 17, No. 4. April 23, 2012. http://www.japanfocus.org/-Murata-Mitsuhei/3742#sthash.EqFPPj9w.dpuf.

3   Bird, W. "Powering Japan's Future". *Japan Times*, 2011/07/24. http://www.japantimes.co.jp/life/2011/07/24/general/powering-japans-future/#.UcJL_JXgIb4.

4   See *The Economist*'s report, "The dream that failed". http://www.economist.com/node/21549936.

regained strength. Regular weekly protests were scheduled in front of the prime minister's official residence; technologically savvy citizen groups were able to bypass official denial and underrepresentation in the media through smart use of digital social networks. And the disaster also forced the state to rethink energy policies altogether, including the viability of nuclear plants in highly seismic areas.

Such widespread discomfort with nuclear power, however, is not new: Japanese people have never been completely satisfied with the nuclear program. Although the state discourse has traditionally emphasized the efficiency of atomic power, studies show a stark contrast between official views and the citizens' standpoint. Public polls conducted by Asahi Newspaper show a steady decrease in the support for nuclear power since the 1986 Chernobyl accident.[5] 2011 surveys of public opinion indicate that support for nuclear energy plummeted after the Fukushima disaster, with as much as 74% of respondents agreeing with the replacement of nuclear energy with alternative sources.[6] Today, despite the nuclear regulators assurances that some of the reactors can be safely restarted, the public at large still opposes nuclear power. According to a recent poll, 75% of Japanese companies support greener paths to sustainability.[7]

Fueled by TEPCO's long history of coverups, multiple falsifications, and submission of fake data, the antinuclear movement started to gain momentum throughout Japan. In July 2012 over 75,000 people gathered in central Tokyo to protest against nuclear power, making it the largest public protest in more than five decades. The crowds, although visibly angry with the government because of its ineptitude in dealing with the nuclear issue, marched along the designated lanes in a peaceful and orderly manner, closely escorted by the police. Some observers ventured that the rally was colorful but ineffective because it did not apply political pressure were it needed to be applied. People voiced their opinions but the central government remained oblivious to them. In the state's discourse, laypersons' views are usually dismissed as irrational and uninformed.[8]

All Japanese nuclear power plants went offline in 2012 due to safety checks. As expected, the Liberal Democratic Party [LDP], which has close ties with the nuclear business sector, strongly argued that the country needed to restart the reactors for economic reasons. According to the LDP, the country could simply not afford to phase out nuclear energy. Current prime minister Shinzo Abe has said many times that he would allow the reactors' restart if their safety can be ensured. Most recently, Japan's NRA nuclear watchdog announced an overhaul in the safety guidelines that could allow the comeback of some reactors early next year. The new guidelines were announced in a public meeting where people were shouting "No reactor restarts!" "Take more time to ensure the safety of reactors!" and "Listen to the public!"[9]

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[5]   Kondoh 2009, p.64; Kotler and Hillman 2000, 23.

[6]   *Mainichi Daily News* Poll, 2011/08/22.

[7]   See Reuters poll, "Three-quarters of Japanese firms oppose nuclear power". http://www.reuters.com/article/2012/05/25/us-japan-nuclear-poll-idUSBRE84O08J20120525.

[8]   See *Japan Daily Press* "PM Abe administration approves white paper on energy policy, dismisses zero nuclear goal". http://japandailypress.com/pm-abe-administration-approves-white-paper-on-energy-policy-dismisses-zero-nuclear-goal-1530653.

[9]   http://www.nytimes.com/2013/06/20/world/asia/japan-nuclear-safety-guidelines.html.

What this suggests is that despite people's fears, the government is unilaterally pursuing the restart of the reactors as soon as possible. The inclusion of citizen participation in decision-making processes is not considered an option. In March, the ruling LDP removed most antinuclear researchers from an energy policy advisory board to the government and replaced them with nuclear energy-friendly advisers.

Voices Unheard

After two years of repeated protests with ambiguous results, the antinuclear movement appears to have lost momentum. Public attention has shifted from nuclear politics to economic policies. Prime minister Abe gains extended media coverage of the much-discussed "Abenomics", a set of monetary, fiscal, and economic policies aimed at encouraging private investment. Virtually everyone in Japan is expecting that these strategies will help the country recover from a prolonged recession.

But the nuclear issue remains, and people's trust in the institutions has yet to be regained. For this, transparency, citizen participation, and joint decision-making are essential. The Japanese government has traditionally separated antinuclear movements from the national nuclear energy decision-making process by imposing constraints on the movements. Given this background and the recent surge of citizen associations, people's perceptions should be acknowledged by the authorities. Rather than facilitating a two-way dialogue, the electric utilities and the regulators have understood public participation as a mere formality devoid of true significance.

Can I Trust You?

It is time perhaps for the government, the nuclear regulators and the nuclear industry, to reconfigure their relationship with the citizens in a more inclusive manner. The nuclear industry should acknowledge that people's perceptions of nuclear risk do matter and incorporate representatives of the citizen movements into the energy discussions. On the other hand, to have protests translated into concrete results the antinuclear groups should create stronger alliances, agree on unified proposals, and align with an existing political party. This would enable them to interact more effectively with politicians, stakeholders, and other decision-makers.

The Fukushima disaster demolished the safety myth of nuclear power in Japan. Systemic failure and corruption of the very institutions that had the duty of ensuring public safety has deepened preexisting fault lines in Japanese society. Most citizens have raised multiple concerns regarding the use of nuclear energy. And yet their voices have not been heard. People feel betrayed, and this psychological wound is bleeding steadily.

For Japan to heal, it is essential to regain mutual trust, build confidence, and to incorporate citizen participation. So far, the nuclear dialogue has been like the sound produced by one hand clapping.

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