Why WHALES?

A
SPECIAL
PUBLICATION

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"... What we have done to the great whales in the sacred name of commerce is an affront to human dignity and a debasement of human values and sensibility. These magnificent animals - almost certainly the largest that have ever existed on earth, and now recognised as the possessors of outstanding intelligence - have been brought to the brink of extinction by killing methods of appalling cruelty.

I have personally witnessed and timed the death throes of a minke whale - the smallest of the baleen whales - which was still alive four and a half minutes after being hit by an explosive harpoon in its rear end, and was probably still alive eight minutes after being struck. In the case of larger whales the time may be 30 minutes or even more.

Consider your reaction if you watched someone go into a field and harpoon a cow in the rump which then took as long to die.

In the light of present knowledge of these intelligent mammals, no civilised person can contemplate the whaling industry without revulsion and shame at the insensitivity of our own species ..."

by Sir Peter Scott (1909–1989)

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Sean R Whyte
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WHALE AND DOLPHIN CONSERVATION SOCIETY

Front cover
Humpback whales; newborn calves stay close to their mothers.

Photo Courtesy Bob Talbot

A PERSONAL MESSAGE

It is with a mixture of deep sadness and great joy that I look upon the mother Earth to which we all owe our existence. With sadness because of the ruthless way in which we continue to exploit her every corner. With joy as I see how many of her citizens are willing to stand up in the struggle for her well-being and survival.

Those few animals, plants and places that are still untouched by our headlong dash towards a sad and sorry future fill my heart with a budding hope, a hope that if we do our utmost to preserve and protect everything that is left on our beautiful planet we can perceive each of these miracles of survival as a ray of light to be carefully nurtured and not allowed to go out.

It is said that the calibre of any great civilization can be judged finally by the way it treats its disadvantaged. I imagine sometimes that in a Universe inhabited by sentient peoples, each planet might be judged on how well it treated its whales. Sadly, by the time we might discover our place in such a scheme, the whales could be a distant memory. How would that place Man in the order of things? And how would it place us in the eyes of our great great grandchildren and beyond?

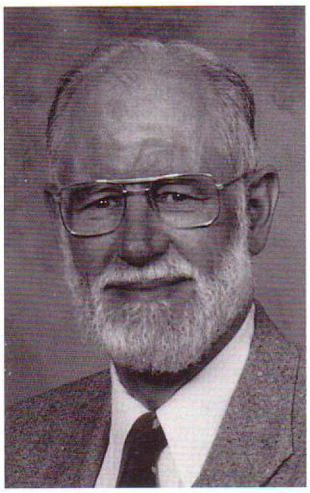
As this twentieth century of the modern world draws to a close, let us not be forced to remember it as the one in which we squandered the whales, those magnificent, intelligent and peaceful mammals, who have been around so much longer than we and have always appeared, to me, to be so much wiser.

More than ever now, whales need clean and peaceful oceans in which to swim, the freedom to roam and associate with their own kind and a plentiful food supply. Not surprisingly, they also need one more thing: our help.

Let our watchwords be,
"Moratorium for the Millenium!"

Salimah Aga Khan

Her Highness The Begum Aga Khan



WHALES ARE UNIQUELY SPECIAL

Dr. Robbins Barstow *is a retired educator who is currently serving as volunteer executive director of the Cetacean Society International (CSI), the organization he co-founded in 1974, and whose headquarters are in Wethersfield, Connecticut, USA. He has coordinated several conferences on whales including the "Whales Alive" conference in Boston. Dr. Barstow has attended International Whaling Commission (IWC) meetings since 1976 either as an observer for CSI or as a member of the United States delegation.*

CHANGING ATTITUDES, VALUES AND STANDARDS OF ETHICS

Ethics are a matter of values. Values are based upon attitudes. Attitudes derive from knowledge, or the lack thereof, and from feeling. But attitudes and therefore values and human standards of ethics do change.

History reminds us that in some societies in earlier times the practice of cannibalism was considered a virtue. As recently as 130 years ago in the United States and even more recently in some other countries, human slavery was supported and defended as being economically and ethically justified.

Over the last 40 years we have seen a highly significant change in attitude and ethics with regard to whales. In practice, during the first two decades under the International Whaling Commission, whales were considered by the whalers to be an expendable resource. As Matthews (1978) describes it, "the whaling companies seemed determined to reap as big a harvest as possible in the shortest time, regardless of the consequences." Because of the animals' low recruitment rate, the best economic strategy for whaling might have appeared to be to take them all as quickly as possible.

Following the 1972 Stockholm Conference on the Human Environment, however, concerted measures were undertaken by the IWC to assure that whale populations below a designated critical level would not be exploited at all. These actions reflected a newly developed global consensus that it was morally wrong to hunt any species of whale to extinction. This has now become universally accepted, with even Japanese whaling advocates adamantly insisting that whale species' survival is a fundamental imperative. As Aron (1988) acknowledges, "If a harvesting regime threatens a species or population with extinction, the current world ethic demands that such activities cease."

Public attitudes and morality today have removed whales from the category of expendable resource. Now we come to the broader ethical question – is it morally acceptable to kill whales at all for commercial gain – to harvest them as a renewable resource, assuming that their kill can be regulated to sustain a continuing yield?

THE GLOBAL ARENA AND THE INTERNATIONAL WHALING COMMISSION

Before outlining my own views on the ethics of whale harvesting, there is one aspect of this issue which I would like to discuss. Whale protectionists have been accused of narrow-mindedly seeking to impose their own values and ethics upon people in other countries who have the right to live by different standards if they so choose. It is argued that if Americans are allowed to kill cattle, sheep and pigs for food and profit, then the Japanese and others should be allowed to kill whales.

In his article, for example, Aron (1988) suggests that whale protection policies, unrelated to species survival, represent the unilateral and arbitrary application of a localized bias. He cautions against "the perception by many countries that the United States is trying to press its moral and ethical standards on others, in ways that have negative economic consequences, at no cost to the United States."

One of the last sperm whales to have been killed in the Azores. Commercial whaling has now ceased but benign research on the behaviour of this species continues and whale-watching is becoming a tourist attraction.

Photo Courtesy International Fund for Animal Welfare

A close encounter with a 'friendly' gray whale. Gray whales have been protected from commercial whaling since 1937 and watching these animals on their migratory route has developed into a multi-million dollar business. In this way both the whales and the public continue to reap the benefits of such protection.

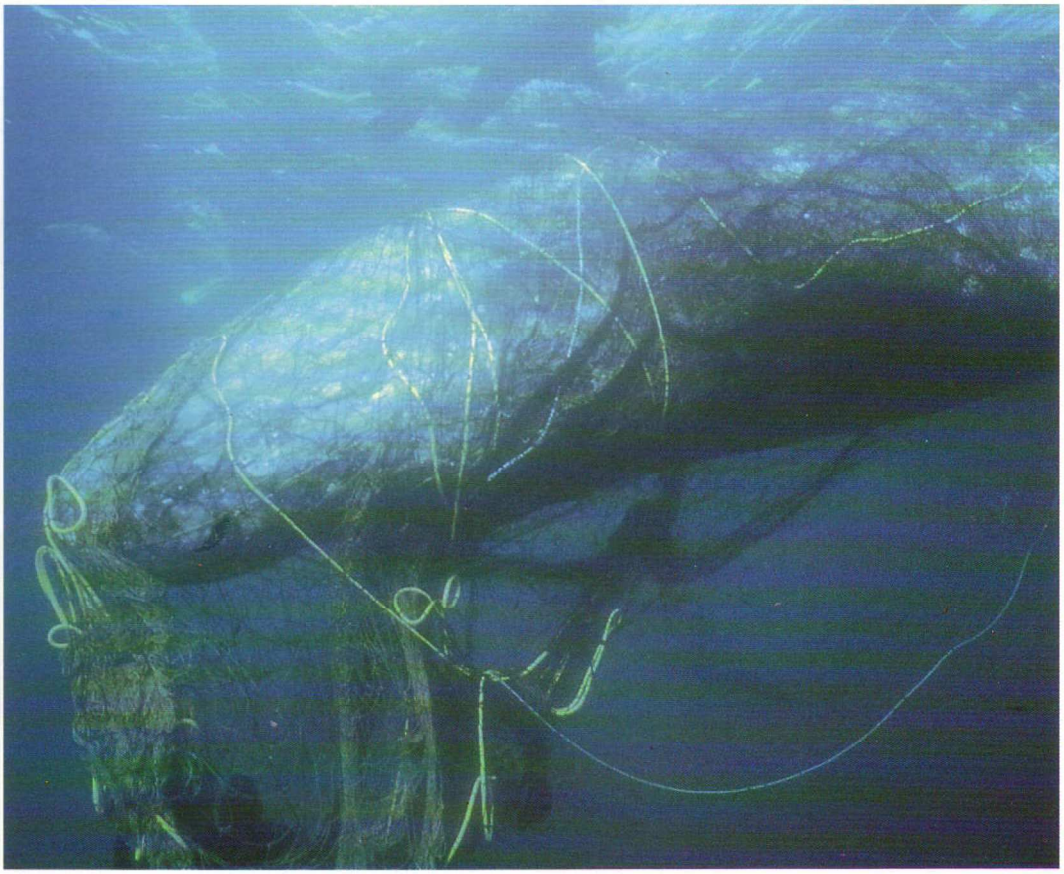
Photo Courtesy Pieter Folkens

The fundamental factor, however, is that the issue of whale protection is in fact a global issue which must be resolved in the global arena. Unlike domesticated animals bred within national boundaries, whales are wild, migratory animals which come under international jurisdiction. Just as it is now an accepted "world ethic" that no whale species should be hunted to extinction, so in the future "no harvesting" may become a global principle.

Japanese scientist Hideo Obara (1987) emphasizes the point that "whales are not domestic animals. The oceans where whales live are not the private property of Japan."

Obara (1987) goes on to observe that the strength of anti-whaling advocates within the International Whaling Commission today "may mean that the anti-whaling sentiment has become the prevailing opinion worldwide, and that the time has come for even the Japanese government to change its attitudes."

The fact is also that the forum where the whale harvesting issue must ultimately be determined is a multi-national body. The nearly forty member nations of the International Whaling Commission represent the overwhelming majority of the earth's people. Moreover, re-enforcing the IWC treaty itself is the provision in Article 65 of the United Nations Law of the Sea Treaty, which, while not yet fully ratified, pledges its signatory



An entangled gray whale. Fishing nets, especially drift-nets as well as discarded nets and other synthetic waste, pose serious threats to whales and dolphins.

Photo Courtesy Bob Talbot

states in the case of cetaceans in particular to "work through the appropriate international organizations for their conservation, management and study."

The United Nations as a whole, set far-reaching ethical standards for all the peoples of the world when, on 10 December 1948, it adopted the Universal Declaration of Human Rights. Now, over forty years later, it falls to the agency established to represent "the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks" – namely, the IWC – to determine for all what scientific and ethical standards will best provide in the future for "the conservation, development, and optimum utilization of the whale resources" (IWC convention, 1946) period.

Two orcas from a pod surfacing in the moonlight. The family bonds of orcas appear to last longer than those of any other animal species.

Photo Courtesy Bob Talbot

THE VIEW THAT WHALES ARE UNIQUELY SPECIAL

An increasing number of people and groups around the world are coming to share the conviction that whales should no longer be killed by humans for profit. This belief is not universal and a variety of alternative views exist. But I would like to set forth here my own personal opinions as to why I think the International Whaling Commission should adopt a management regime of permanent protection for whales from consumptive commercial exploitation on a global basis. My rationale is grounded in pragmatic practicalities of both fact and feeling.

Why whales? My rationale most simply is that whales are uniquely special. In my opinion, they are in a class by themselves.

Let me suggest five major categories of special uniqueness.

First, whales are **biologically** special. Whales include by far the largest animal on earth, growing to be over 30 meters in length – the blue whale (*Balaenoptera musculus*). Whales include the possessor of by far the largest brain of any creature ever to have lived on our planet – the sperm whale (*Physeter macrocephalus*), whose brain weighs four or five times as much as a human brain. Whales include the creator of the most complex, longlasting, repetitive sound patterns of any non-human animal – the humpback whale (*Megaptera novaeangliae*). And whales include species (*Tursiops truncatus* and some other odontocetes) which exceed humans and all other groups as well in convolutedness or fissurization of the cerebral cortex.

Ridgway (1986) has reported findings that the bottlenose dolphin, in particular, by a variety of measurements (encephalization quotient, volume of cortex, ratio of brain weight to spinal cord weight, etc.) ranks just below humans and considerably above other higher primates, including gorillas, chimpanzees, and orangutans.

These and other unique characteristics make cetaceans biologically special.

Second, whales are **ecologically** special. Whales have evolved as marine mammals over millions of years, with both baleen and toothed whales probably appearing at least 25 million years ago, long before the development of human beings and the latter's intrusion into the ocean ecosystem.

Whales are at the top of the vast food chains of the sea. Because of their size, widespread distribution and variety of feeding patterns, cetaceans affect the ocean in special ways with global impact. Much is still unknown about their role, but in many ways it appears to be ecologically unique.

Third, whales are **culturally** special. Living cetaceans have an almost unbelievable capacity for enriching the lives of human beings with whom they come in peaceful contact. They have a uniquely universal appeal to the human spirit. They are unmatched invokers of awe. There is a mystique about them that inspires a sense of wonder and exhilaration among persons from all races and nations in ways no other, non-human species has equalled so widely.

Another aspect of whales' cultural uniqueness lies in their special aesthetic qualities. Throughout human history they have been the subjects of exceptional artistic creations. They are supremely photogenic (see, for example, the beautifully illustrated book by Heathcote Williams (1988), Whale Nation). They even serve as special keys for education. Cetaceans have such a unique fascination and such widespread interest for persons of all ages and backgrounds that they become breakthrough educational motivators.

Furthermore, whales appear to have a special affinity for human beings. Despite their overwhelming size and power and despite the centuries of their being victimized by human predation, whales in the wild are proving to be uniquely tolerant of the peaceful proximity of human beings and indeed are increasingly demonstrating not merely passive coping, but deliberate initiation of positive interactions. This adds significantly to their cultural uniqueness.

Fourth, whales are **politically** special. The vast majority of species are non-national in range. Their living space, unlike that of land animals, does not fall within clearly defined national boundaries. Their dwelling place is largely the global commons, the seas of the world, which do not belong to any one nation. More than any other marine mammal, whales are pelagic in their habitat, and thus they constitute a unique global resource.

Moreover, whales are uniquely subject to international control. Because they are not legally an exclusive resource of any one nation, no one nation can claim a moral right to kill them. The exploitation or protection of whales is logically and legally a determination to be made on an international basis, through the specially established agency of the International Whaling Commission. In this way too, whales are unique.

Finally, whales are **symbolically** special. More than any other form of non-human life, whales have come to symbolize concern for the environment. At least in western society, protection of whales has become a touchstone for caring about the inter-relatedness of all life on this water planet. There is wide support for not killing whales because they are such a special symbol of sharing the earth.

THE CARING FACTOR AND MUTUAL ENRICHMENT

All of the foregoing considerations provide a rationale for the IWC to ban the future harvesting of whales. It may turn out in the end, however, that the most rational basis for providing permanent protection for all whales is at the same time the most irrational – it is the all but universal emotional response elicited by whales from human beings who are not engaged in the actual business of whale killing. Because of this response, the consumptive exploitation of whales for commercial gain may already have become so unacceptable to so large a segment of the global public that it simply must be given up.

Modern technology has provided the facts and the imagery, via books and films and worldwide television exposure, which have fed this feeling. Knowing about whales leads to caring. If anyone doubted the extent and depth of this caring on a global scale, they must surely have been taken aback by the almost incredible intensity of interest, concern, and energy focused from every corner of the globe on the internationally televised saga of the rescue efforts for the three gray whales trapped in arctic ice at Point Barrow, Alaska, in October 1988.

I believe that humankind is on the threshold of a profound moral transformation. The world is turning from valuing whales dead to valuing them alive. The idea of sharing our planet with whales alive is replacing the concept of killing them for sale. The IWC moratorium now in effect, marks the start of a whole new era in human/cetacean relations. For at least a temporary period, humankind as a whole is committed to maintaining a relationship of peaceful coexistence between humans and whales.

During the past decade in particular, evidence has been accumulating that a new relationship of caring and sharing can indeed offer mutual enrichment. In his book about recorded live encounters with whales and dolphins in the wild, Wade Doak (1988) documents scores of incidents throughout the world's waters of positive human/cetacean interactions which leave little doubt that these free-swimming experiences were, at least to some degree, meaningful and satisfying to both species. Encounter accounts range from giant sperm whales to pods of wild orcas to game-playing, oceanic dolphins.

Anyone who has had personal contact with cetaceans in their home environment knows how incredibly enriching this experience can be for the human psyche. By the same token, dolphins riding bow waves and sporting in the seas surrounding ships, "friendly" gray whales nudging small surface craft and inviting human hand strokes, acrobatic humpback whales approaching whale watch vessels of their own accord and performing close-up manoeuvres to the cheers of onlookers often for more than half an hour at a time – all of these repeated manifestations clearly demonstrate that, at least on some occasions, humans are in fact providing a not unwelcome added dimension to cetacean lives. Surely this constitutes a form of mutual enrichment.

A Risso's dolphin leaps up into the air, completely clear of the water as it sprints forward through the open ocean.

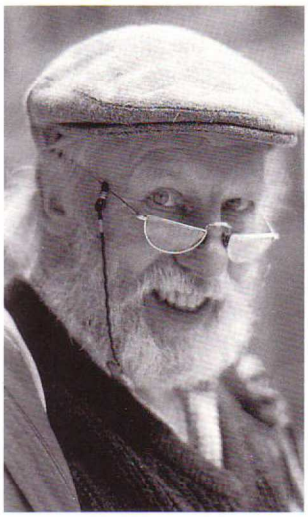
Photo Courtesy Robert Pitman

CONCLUSION

Perhaps one way to summarise why humankind should permanently renounce commercial whale killing and should start with whales in seeking to end the non-essential taking of other species' lives is to consider that the two highest mountain peaks of evolution on our planet are *Homo sapiens* on land and cetaceans in the sea. It is arguable that the two most highly developed forms of life on earth should coexist in peace.

My thesis is simply this: beyond whale species survival, because of what we now know about whales and because of how humans now feel about whales, their special uniqueness merits a new moral and ethical standard in the global arena of the IWC, that will permanently protect them from consumptive, commercial exploitation.

I believe that peaceful coexistence and mutual enrichment should be the overriding goal for future relations between humans and whales in today's world.



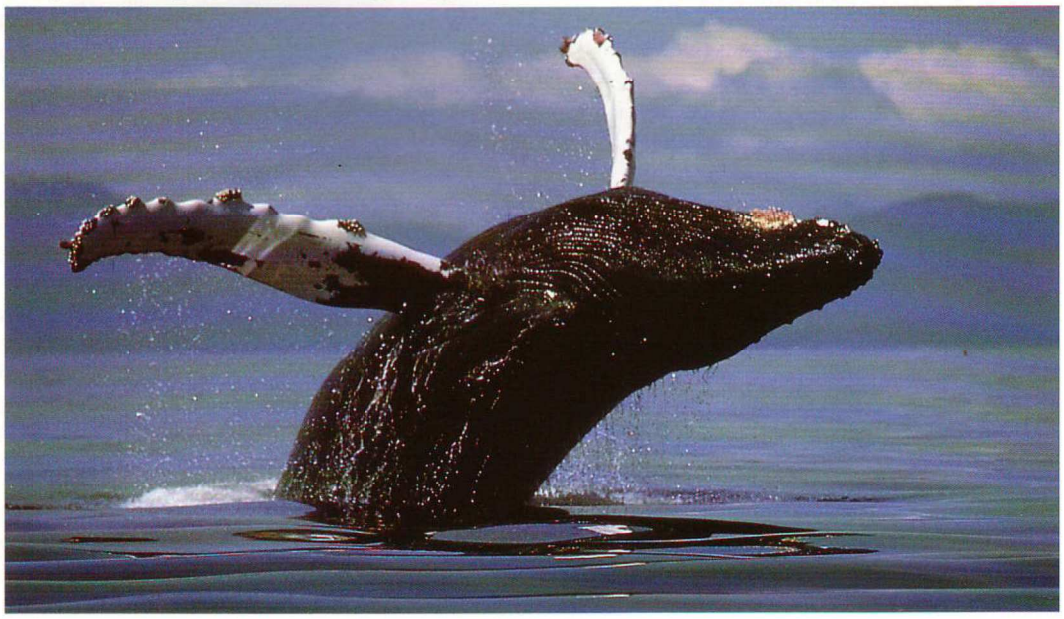
THE UN-ETHICS OF WHALING

Dr. Sidney Holt *is a marine biologist specialising in fisheries management and conservation of marine mammals. He is currently a Scientific Advisor to the International Fund for Animal Welfare. In addition, he has been a member of the IWC Scientific Committee since 1960, in various capacities, but mainly as representative of the Food and Agriculture Organization of the United Nations. Since 1980, he has been a member of the Delegation of the Republic of Seychelles to the IWC. In this article he expresses his personal views, which may reflect neither the position of the Government of Seychelles nor that of the International Fund for Animal Welfare.*

A growing number of people in many countries are coming to believe that the killing of whales for commerce is unethical and that therefore the present indefinite moratorium on that activity should be made permanent. Their reasons for holding this belief are varied but are mostly based on two general perceptions: first that whaling is intrinsically inhumane or cruel; and second that whales are 'special' animals, having evolved, over tens of millions of years in the ocean, modes of life, forms of society and high intelligence which are vastly different from those of, for example, the apes (including us) and elephants on land. Their great size, their beauty at rest and in motion, their play and prolonged care of their young, their apparently benign attitude towards humans who contact them, and their extraordinary means of communication among themselves, of navigating vast distances, and of sensing their environment accoustically and perhaps magnetically, are all also cited as evidence of 'specialness'.

Whilst acknowledging these arguments it should also be recognised that despite continuous global changes in ethical attitudes many people do not yet accept them. This is so particularly in countries in which commercial whaling continued until the moratorium came into effect, and where it had had a long history. The perception that whales are in no sense special, but merely one class among other classes of exploitable living resources of the sea, is naturally held by those who are involved in the conduct of whaling, those who otherwise benefit economically from that industry and, usually, by those in local and national governments or political systems that are charged with promoting or regulating the industry and the commerce arising from it. But that perception is also widespread in the general populations of those countries. They have usually had much less exposure than the populations of non-whaling or ex-whaling countries to scientific research results and media presentations emphasising the 'non-resource' aspects of whales. In consequence they tend to see public expression of the 'non-resource' perception as an unacceptable attempt to introduce a 'foreign idea'. Thus they are led to emphasize 'cultural differences', as if such differences were unchanging and the national cultures were not themselves evolving, largely convergently.

Other articles of this publication will explore this general matter more deeply. Here, I wish to make the point that the degree of cultural convergence that has occurred during the past century and especially in the last four decades, has, quite apart from the question of attitudes to whales specifically, already led to virtual consensus on a number of ethical questions, all of which are relevant to the current debate about the future of the moratorium on commercial whaling. These questions concern: treatment by humans of non- human animals that may be killed for food or other products considered to be important to human well-being; care for the global environment; inter-generational equity; relations among nations and among other types of social groups; behaviour of nations and human groups in accordance with law and customary practice. I conclude that consideration of all these questions in the light of current and virtually universal ethical views, must lead to the conclusion that the moratorium on commercial whaling should remain in force for many years to come.



A humpback whale breaches with both its long pectoral fins raised into the air. Commercial whaling for humpbacks was stopped in the mid-1960s.

Photo Courtesy Bob Talbot

A whale carcass is hauled up on the ramp for processing at an Icelandic shore station.

HUMANE KILLING

Since the IWC was established it has been generally recognised that the harpooning of whales and killing them with explosive grenades is a cruel method of hunting. (I use the word 'cruel' here to mean 'causing pain or suffering'. It may also be read in this context with the secondary meaning of 'having or showing indifference to such pain or suffering' but not necessarily, of course, 'having or showing pleasure' in it.) In the early years there was considerable discussion of alternatives, such as the use of electric shock to stun and/or kill the harpooned whale. Trials were conducted but no change resulted from them.

In this period, representatives of whaling nations generally maintained that, while the issue of humane whaling could be discussed, the IWC had no authority to take regulatory measures since the matter of cruelty is not mentioned in the 1946 Convention nor in the Final Act of the negotiating conference.

Until the early 1980s the explosive grenade was not used in hunting minke whales, because the explosions would damage too much of the meat from this small species. Furthermore, as the most sought-after commodity from larger species had become meat for human consumption rather than oil, some whalers, especially from those countries that were relatively new to 'modern' commercial whaling, had decided to use non-explosive ('cold') grenades when hunting the larger baleen whales, especially fin, Bryde's and sei. Meanwhile, in the period between 1946 and the 1980s, most states recognised the need for more humane treatment of food animals, especially in killing methods, and had established national regulations for such treatment.

The situation changed when, at its 1980 meeting, the IWC forbade 'The killing for commercial purposes of whales, except minke whales, using the cold grenade harpoon'. This decision was derived from the powers available to the IWC under the 1946 Convention to adopt 'regulations with respect to the . . . utilization of whale resources, fixing . . . types and specifications of gear and apparatus and appliances which may be used; . . . ' The records of the meeting make it clear that the purpose of this regulation was to reduce cruelty. Only the Republic of Korea among the (then) whaling nations lodged an objection to it, and then not as a matter of principle but rather of convenience; the objection was withdrawn the following year.

In 1981, the IWC extended the prohibition to the killing of minke whales. The governments of Brazil, Iceland, Japan, Norway and USSR all subsequently objected to this decision for what they considered to be a sufficient practical reason: that no suitable alternative means existed. Norway alone has since withdrawn its objection, in July 1985.

Thus a clear precedent has been established that the IWC may regulate 'the types and specifications of gear, apparatus and appliances' that may be used in commercial whaling, for the purpose of reducing cruelty; no member country has challenged this power. Furthermore, the IWC has prohibited a particular appliance – the cold grenade – even though a suitable alternative did not exist at the time. Notice was given at the 1980 meeting that a proposal to extend the prohibition to minke whaling would be put forward in 1981. Given the feeling in the Commission at that time, and its composition, it could be taken for granted that the second proposal would be adopted; thus the countries then engaged in minke whaling had about a year and a half to prepare by devising a new method. They had not done so by late 1981 and accordingly lodged objections so that they could continue minke whaling in the 1981/2 and 1982 seasons.

In all earlier debates, the basic assumption had been that if a less cruel method of killing was not immediately available there was no objection to continuing use of the present one. Thus there was virtually no pressure on whaling nations to modify their practices or even to conduct the necessary research to develop new methods. Now the situation was changed in that whaling nations were forced into a position in which they were diplomatically less comfortable – as objectors – and hence given a stronger incentive to improve.

Given these precedents, further amendments to the Schedule of the 1946 Convention might now be appropriate. An obvious minimum requirement would be that no catch limits for minke whales other than zero would be considered until all the countries concerned had withdrawn their objections to the 1981 decision. But at the same time, it would be reasonable to argue that no catch limits other than zero should be set for any species, at least until a realistic programme of research and development of significantly less cruel methods than the present ones had been drawn up, examined by the Scientific and Technical Committees, and funded, with a short and strict timetable for implementation.

CARE FOR THE GLOBAL ENVIRONMENT

Most nations have expressed their adherence to the World Conservation Strategy (WCS) developed by the World Conservation Union, the Worldwide Fund for Nature and the United Nations Environment Programme. The WCS proposed the condition that any moratorium on commercial whaling should continue, 'until the consequences for the ecosystems concerned of removing large portions of the whales'

The large head of a surfacing right whale 'skim-feeding'. The whitish callosities on the head and lower jaw regions are clearly visible. Callosity patterns enable human researchers to recognise individual right whales. These whales were the first of the great whales to be hunted commercially, they were hunted ruthlessly to near extinction.

Photo Courtesy Flip Nicklin

populations and such populations' capacity for recovery can be predicted'.

No such ability for reliable prediction yet exists. No trace of any discussion of 'the consequences for the ecosystems . . .' can be found in the reports of the IWC Scientific Committee.

It may, therefore, be judged unethical for any country, the government of which has paid lip service to the WCS, to propose at this time lifting (or any relaxation of) the moratorium.

INTER-GENERATIONAL EQUITY

It is commonly said that ensuring conservation of renewable resources is primarily a scientific matter. It is not. It is an ethical matter; the role of science is only to give the basis for practices by the present generation, which should ensure that the recognised interests of future generations are respected.

With remarkable prescience, governments signing the 1946 International Convention for the Regulation of Whaling recognised, in the very first substantive sentence of its preamble, 'the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks'. The purpose of the Convention, and hence the objective of the IWC, was 'to provide for the proper conservation of whale stocks'. Such 'provision' was supposed, inter alia, to create the conditions for an 'orderly development of the whaling industry'.

The industry did not, as is well known, develop in an orderly way, nor did the IWC. It took 25 years for the IWC to make a serious attempt to create the desired conditions for such development. It may be said to have begun to try to make up for lost time, under pressure from the United Nations, when in 1975 it adopted a so-called New Management Procedure (NMP) which did apparently, and implicitly, give considerable weight to the restoration of depleted stocks and hence, to safeguarding them for future generations. The NMP can be said at last to have created the conditions for implementing the primary purpose of the Convention, so far as the baleen whales in the Southern hemisphere and the North Pacific were concerned, except for the minke and Bryde's whales. However, fatal flaws in the NMP with respect to its application to these species, to the sperm whale, and even to fin and sei whales in the North Atlantic, set in motion events which culminated in the commercial moratorium decision of 1982.

The catch limits set arbitrarily before 1975 (and virtually all those – other than zeros – set under the NMP) were, at best, such that the possibility of continued depletion of stocks could not be ruled out; at worst, they positively encouraged such depletion. A sector of the scientific community has, since the moratorium came into effect, been attempting to devise a Revised Management Procedure which will perform as the NMP was intended to perform. Construction and testing by computer simulation of possible procedures is not yet at the stage where one of them could safely be applied.

Being fully aware of the failures of the NMP and of other past regulatory practices, it may be judged unethical to insist now, as some IWC member governments are doing, that non-zero catch limits be set immediately, either in terms of the NMP or according to arbitrary formulae.

RELATIONS BETWEEN NATIONS AND OTHER TYPES OF SOCIAL GROUPS

It is a fundamental feature of the IWC that membership is open to any sovereign state that is sufficiently interested in whales to ratify the 1946 Convention, regardless of whether its nationals hunt whales or conduct scientific research on whales, whether it is coastal or land-locked, rich or poor, and so on. It is also characteristic of the IWC that, unlike most other inter-governmental organizations, no allowance at all is made for population size or national income per capita in the calculation of dues, so poorer nations do not get a 'cheap ride'.

In all inter-governmental organizations, however, more powerful member nations exert external pressures on weaker ones, or offer inducements for them to follow a particular policy within the organization. However, the pressures that some non-whaling countries have been subject to in the IWC over the past 15 years, from a very few whaling countries, have been enormous, especially considering the economic triviality of whale 'resources'. Some smaller countries have resisted those pressures, others have, not surprisingly and quite understandably, capitulated to them. Many of these instances are well-known to IWC participants but have not been made public, and I do not intend to cause embarrassment by breaking the general rule of silence now. But sufficient information has been made public to show that the secret pressures have included: threats to withhold from third-world countries aid packages and soft loans; offers of economic substance in return for promises of certain changes in voting positions; protests at high political levels about the supposedly 'unfriendly' behaviour of properly constituted delegations; and threats of specific trade boycotts unless voting positions are changed. This should not be confused with the legitimate and openly discussed and announced sanctions that have been imposed from time to time on certain whaling nations – especially by the US – for their actions contrary to IWC decisions.

Covert activity by governments of some whaling countries has also included attempts to interfere with the composition of delegations of other countries, and even slanderous and libellous attacks on their officials and scientists, especially as part of efforts to get 'unfriendly' ones moved or dismissed from their posts.

While all these practices, unfortunately, occur in other contexts, they are universally regarded as unethical, hence the secrecy surrounding most of them. During the long period in which they have been rife in the world of whaling I have never heard of a reverse case, that is one in which a non-whaling nation has engaged in them against a whaling nation.

Cetaceans have a unique status in international law. Nearly all of them are listed as 'Highly Migratory Species' in the United Nations Convention on the Law of the Sea (UNCLoS), and in that Convention they are also accorded special treatment as 'marine mammals'. The highly migratory species live at least in part on the high seas beyond national jurisdictions and their conservation is acknowledged to be a concern of all states. The cetaceans are frequently spoken of as 'a common heritage of mankind', even if no living resources are formally designated as such in international law.

The IWC was, until recently, universally recognised, despite its past failures and faults, as the proper forum for the regulation of whaling, the coordination of research on whales, and generally for inter-governmental debate about whales and whaling. The great majority of states continue to attribute that role to the IWC. In the past three years, however, and with gathering insistence, whaling nations in the North Atlantic area have been saying that, because the IWC has not awarded them the immediate catch quotas they were demanding, it must be substituted by a new regional organization for the North Atlantic. The Governments of Iceland and Norway, and the 'home rule' authorities of the territories of Greenland and Faroes, dependent on Denmark, have even taken the first steps in establishing such an organization, which would, they intend, regulate both whaling and sealing.

Apart from being an attempt to undermine the IWC, or to pressurise it to change its basic decision to maintain commercial whaling in

One humpback whale displays its flukes, while another blows from a pair of blowholes (nostrils) on the top of its head, both against the setting sun.

Photo Courtesy Bob Talbot

suspense until a Revised Management Procedure is in place, the steps being taken quite deliberately exclude the non-whaling coastal states of the region. Yet, under the law of the sea, all coastal states in a region have a legitimate interest in the conservation and management of whales in that region. Even though the UNCLoS is not yet in force, most of it, including its provisions for management and conservation of living resources of all kinds, is already generally regarded as having the status of customary international law.

The threats made, and the steps being taken, by the North Atlantic whaling countries, while not formally illegal, are contrary to the spirit of UNCLoS, as well as of the 1946 Convention, and may properly be condemned as unethical. This is particularly true with respect to the one country among them that has ratified the UNCLoS – Iceland.

At governmental level the essential conflict is not between those who want commercial whaling to end and those few who want to be allowed to resume immediately, although that is how it is constantly misrepresented in statements coming from the latter group. The real conflict is between that small group and those who think that commercial whaling should only be permitted to resume when certain stringent conditions are met; of those, some do not rule out the possibility that when those conditions are met, they may themselves engage in whaling.

Public and persistent misrepresentation of one's adversary's position is generally regarded as unethical.

Within all countries there are groups of citizens who have come to believe that commercial whaling should cease. In some countries, among them Japan, Iceland and Norway, these are probably small – though undoubtedly growing – minorities. In others, (as for example a recent poll in New Zealand has shown) the overwhelming majority of the population is opposed to the resumption of commercial whaling. Regardless of the positions currently held by their governments, it is unethical to conspire to suppress their views. Attempts at such suppression have been made by government officials in certain whaling countries, both by 'warnings' to individuals and societies and by disinformation towards the mass media.

BEHAVIOUR OF NATIONS AND HUMAN GROUPS IN ACCORDANCE WITH LAW AND CUSTOMARY PRACTICE

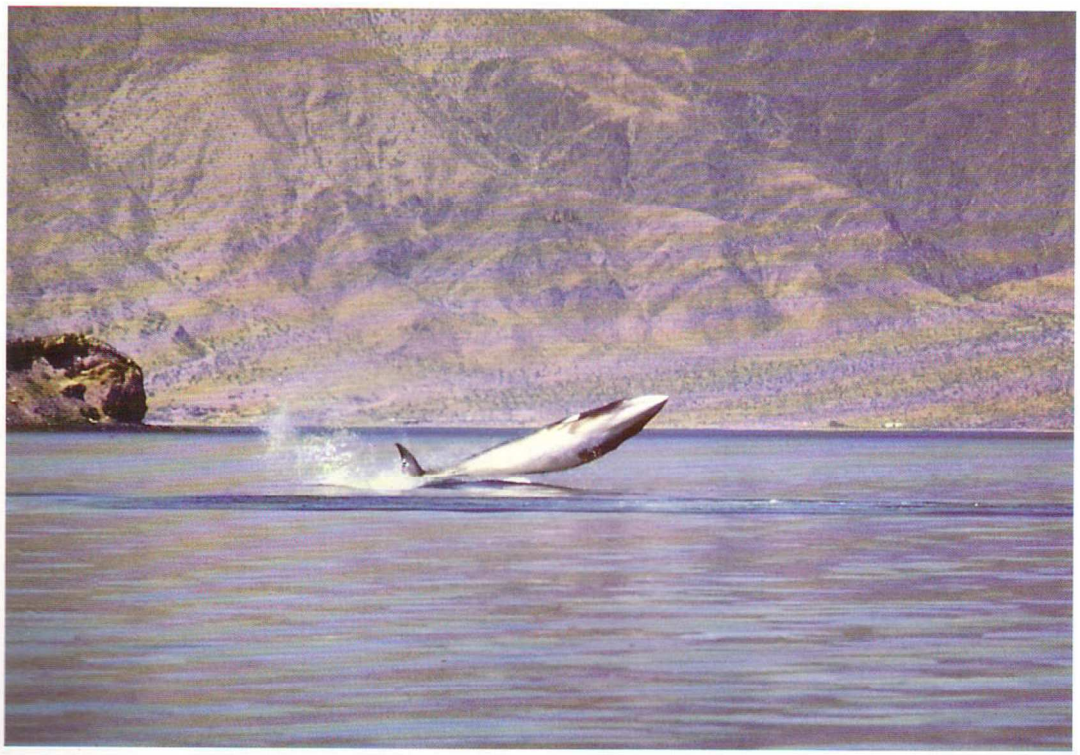
Some such behaviour which is unethical has been mentioned under the previous heading. Here, I have in mind principally the misuse by governments of loopholes in the 1946 Convention and in other relevant agreements, and failures to fully implement laws and regulations.

The rules governing decision-making by vote, the applicability of decisions to states, and exceptions to those rules of which the most important is the right to award special permits for the killing of whales for research purposes, were negotiated in 1946 with considerable difficulty with the purpose of finding proper safeguards for national sovereignty. All those rules have been abused in recent years by whaling nations.

When several nations were competing for whales in a certain area, it was generally in their interest that agreement be reached, or at least a firm decision made by three-quarter majority vote, on a catch limit, so that they could then negotiate among themselves for shares; a process forbidden to the IWC itself. If one objected to a decision they usually all objected; there is even a special provision in the 1946 Convention to

A breaching fin whale. After the blue whale was almost exterminated by commercial whaling operations, whalers concentrated on the fin whale, the next largest and most valuable species.

Photo Courtesy Center for Coastal Studies



A rare sight; a minke whale breaching smoothly and clearly from the water. The minke whale is still hunted today for 'scientific' purposes by some nations.

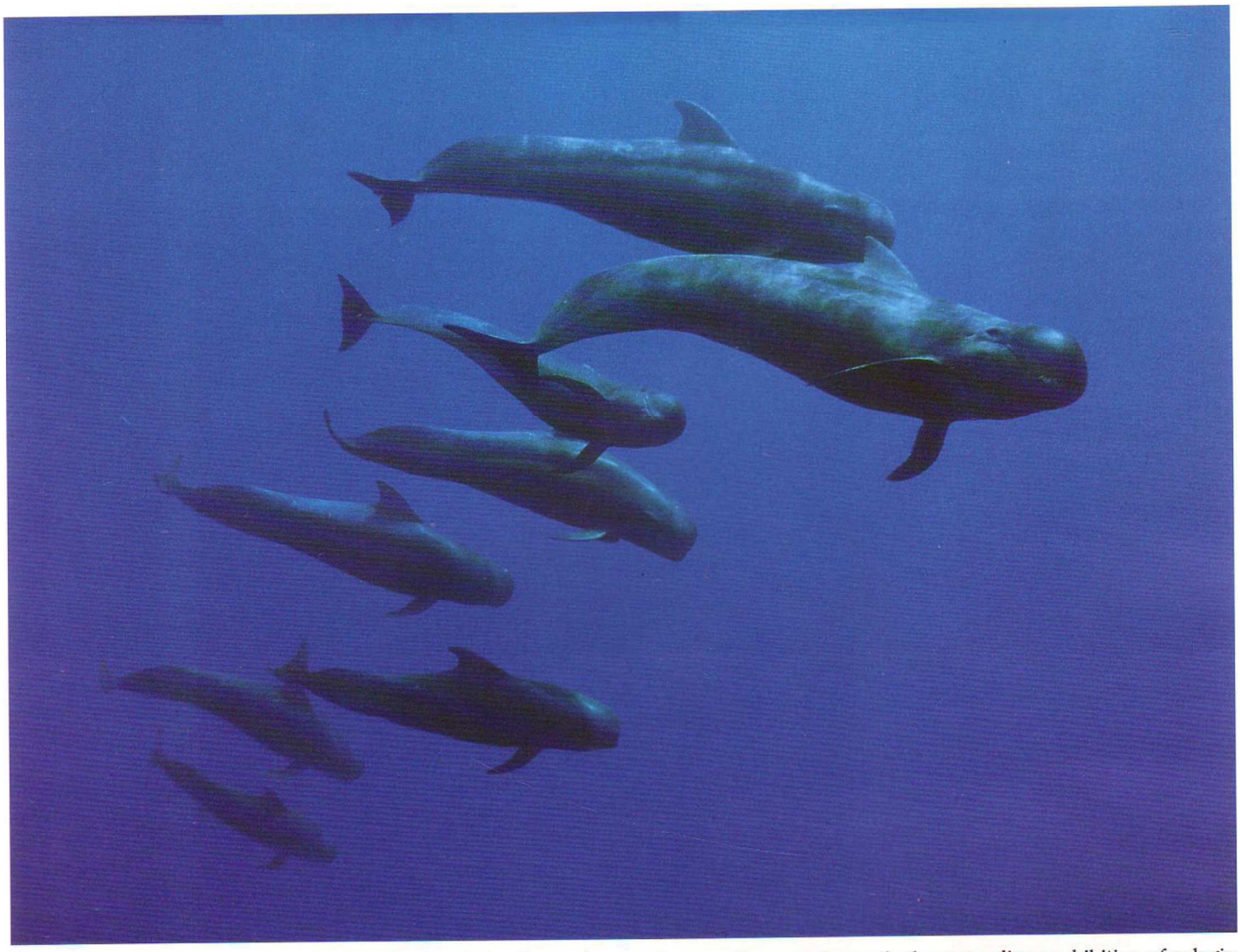
Photo Courtesy B Tershy and C Strong

facilitate such coordination. The situation changed in the 1970s with the decline of the pelagic whaling industries, the reduction in the number of whaling nations, and the introduction of the NMP. Under the NMP, whale stock boundaries in the Northern hemisphere were defined in such a way that generally ships of only one nation would operate in one stock area. Whilst there was pressure to reduce catch limits towards possibly sustainable levels it became in the short term interest of some whaling nations that three-quarter majority management decisions not be reached: this would allow them to decide their own limits, if any. As the membership and the general opinion in the IWC changed in such a way that conservative catch limits could be set more often than not, the objection procedure was used to counter the trend. More recently, some whaling countries have simply resorted to threats to walk out of the IWC.

It is quite clear from the history of the idea of exemptions for scientific research, and the relevant negotiations in 1946, that the provision for unilateral issuance of special permits was never intended to provide for wholesale evasion of IWC regulations. Yet it has been used in that way for several years, in a coordinated fashion, by three whaling nations. Such restraint as they have shown has been almost entirely due to the use or threat of sanctions by the United States, backed up in some cases by consumer boycotts in several countries. Resolutions by the IWC calling for postponement or substantial revision of these programmes have been largely ignored. Unfortunately, those undertaking such programmes have frequently misrepresented to the public the reasoning behind IWC resolutions, which has been that they were scientifically inadequate and unnecessary. The misrepresentation has taken the form of claiming that the IWC, and especially those supporting the resolutions, are simply against scientific research. Such false claims have usually involved the creation of confusion between the lethal research, which is condemned on technical grounds, with non-lethal research – especially sightings surveys – which has in fact always had universal support, even though it is directed towards an early resumption of whaling.

It is widely perceived that killing substantial numbers of whales under special permit is essentially a device for continuing commercial whaling, or at least for maintaining whaling fleets and crews ready for a re-expansion. The evidence for this perception is circumstantial, but compelling. Firstly, the programmes have not generally been continuations of studies that had been underway before the moratorium began; indeed they have included some observations that should have been conducted on the preceding commercial catches but which were not made. Suddenly, the need for certain information is recognised, just as the moratorium starts!

Secondly, it is known that in at least one country instructions were given to scientists to draw up plausible research plans some time before the moratorium came into effect, to be implemented from the beginning of the moratorium. Thirdly, it is known that the three countries involved assisted each other with their virtually simultaneous research plans and, of course, consistently support each others plans when they are discussed within the IWC. Fourthly, although it is claimed that the studies being made are essential for the management of future whaling, the types of data being obtained are not necessary for any of the proposed Revised Management Procedures, including those being developed by those countries. Fifthly, certainly in one case (Japan) and probably in another (Iceland) the scientific sampling operations are in fact profitable, taking advantage of the, in other circumstances, reasonable provision in the 1946 Convention that 'whales taken under these (special) permits shall, so far as practicable, be processed and the proceeds dealt with in accordance with directions issued by the Government . . .'. This result is achieved by a kind of double accounting. Firstly, a government subsidy is awarded for the research and the Government is thus able to announce and



Underwater, a group of eight pilot whales swim closely together. These are gregarious animals with extremely strong social bonds. They help each other in distress and stick together through any kind of adversity - a characteristic which is exploited by the Faroese who kill pilot whales by the hundreds in their drive fishery.

Photo Courtesy Bob Talbot

emphasise that it is virtuously spending much money on science. Then it is shown that, despite the subsidy, the proceeds of commodity sales barely meet the costs of the research. But in fact the commodities reach the consumer at grossly inflated prices; that profit, not counted, accrues not in the producing industry, but in the subsequent trade and services, as 'value added'.

In the case of the permit research on minkes in the Southern hemisphere the accounting is complicated in an additional way. It is announced that sightings surveys carried out with the blessing of the IWC under the International Decade of Cetacean Research are being financed to a certain (very high) level. The greater part of this expenditure is incurred by the operation of the catcher boats which are used to spot whales. But in the accounts of the outgoings for the lethal 'sampling' it appears that the full costs of these ship movements are counted again on the outgoing side, rather than the total costs being allocated appropriately between the two types of operations, which are carried out sequentially in two adjacent sectors of the Antarctic.

Let us now move on to an assortment of other unethical practices. The case of so-called 'pirate whaling' is well known. In this, member nations of the IWC were involved for several years in encouraging and assisting operations under the flags of non-member nations – in some cases flags of convenience and trading whale products with them, as a way of avoiding IWC regulations. It is commonly assumed that the aim was for total catches to exceed IWC catch limits. But in addition other regulations were undermined. One such was the long-standing prohibition of pelagic operations in the tropics. This, quite unintentionally, gave some protection to the tropical Bryde's whale. Pirate operations were also not bound by regulations forbidding the capture of lactating females and calves and under-size individuals.

International trade in most whale products is prohibited under the Convention on International Trade in Endangered Species (CITES). Icelandic exporters (Iceland is not a party to CITES) have been caught out twice attempting to move whale meat to Japan through the ports of parties to CITES; hardly an ethical practice with respect to otherwise friendly countries! These incidents have come to light through investigations by non-governmental organizations (as did the extent and details of pirate whaling); one must wonder how many other incidents have not become public knowledge.

International and national enforcement arrangements for IWC regulations have long been the scene of unethical practices. When whaling nations were exchanging inspectors on pelagic factory ships, supposedly in implementation of the IWC-sponsored International Observer Scheme (IOS), instances came to light of collusion between the inspectors and the ships' operators to cover infractions of regulations. Similarly, national inspection has been lax in certain countries. Instances have been cited of collusion between inspectors and whalers and of cover-up of infractions by government departments. Most recently, in the case of Norwegian minke whaling, inspection was so

inadequate that whalers were able to kill up to 30% more than the permitted quota. Details of this were only made public when their scientists needed to use the information for other purposes.

Lastly, mention should be made of the practice of withholding critical data from the IWC and worse, making such data available late and only selectively, notwithstanding provisions in the 1946 Convention compelling prompt submission of specified data. Countries have occasionally gone to extraordinary lengths to justify such practices, arguing, for example, that the data which should be taken into account in managing the use of an international resource are nevertheless the personal property of their scientists who must first have an opportunity – over several years – to squeeze meaning out of them. Other data which whaling countries use to justify their particular conclusions about the states of whale stocks are never made publicly available, because they are said to contain secrets of the whaling industry, and therefore can be used only by trusted scientists working for those industries or associated governments. Perhaps the most notorious recent case has been the claim by the Government of Norway that it did not consider minke whales to be 'whales' before 1976, despite the fact that Norwegian whalers had been killing thousands of them each year for thirty years before that. The mandatory data – size, sex, location, date of each whale caught were not provided to the IWC until 1988, and even then there was a short-lived attempt to embargo the free use of that information for IWC purposes.

I have given a catalogue of examples of unethical practices by whaling industries and by the departments of governments and their employees (who are supposed to regulate those industries) and provided indications of the ruthlessness with which they have sometimes been conducted. This should be sufficient to indicate that in trying to safeguard whale stocks for future generations, while discussing aspects of the resumption of commercial whaling, the community of nations is dealing with industrial and related government operations in a worldwide trade and mutual support network in which a variety of such practices has been common. Some of them could not be stopped by any action by the IWC, but could at least be impeded by an alert and well-informed public opinion in a number of countries. Others could, however, be made more difficult by appropriate IWC action, just as the IWC played a considerable role in stopping pirate whaling.

It would be naive in the extreme to assume that with any resumption of commercial whaling under a revised management procedure that has been 'computer tested' the motivation toward unethical practices will have magically receded. In fact, with the inevitable low catch limits – by previous standards – and soaring whale meat prices, the drive to break, evade or bend the rules will be stronger than ever. Some things could be done to counter that drive, in addition to the suggestions made earlier regarding humane treatment of animals.

Perhaps the most important is to make sure that the objection provision is rarely if ever used to make nonsense of the revised procedure. The objection provision itself cannot be touched, without a complete revision of the 1946 Convention, which is unlikely to happen. But there is one feature of that provision which could be turned to good use. Whilst an objection can be withdrawn at any time, it cannot be lodged later

Two humpback whales breaching together provide a spectacular aerial display. These animals are very powerful and energetic acrobats and breach more often than other baleen whale.

Photo Courtesy James D Watt

than a specific period of about three months after the decision to which it refers. That means that the Revised Management Procedure could be formulated in such a way that once a country had accepted the procedure as such, all subsequent catch limits which follow from it would be essentially automatic. This could also ensure that the situation could not arise, as it has so often in the past, when failure to reach a three-quarters majority for a particular number leads to no catch limit being set. An additional safeguard would be that in the event that required data have not been made available, or are inconclusive or in any other way questionable, the catch limit would, without the need for a vote, fall immediately or quickly to zero.

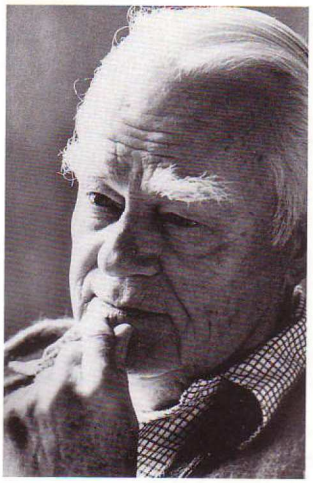
The scale of any continued 'scientific whaling' could perhaps be reduced by securing a formal agreement that any desired 'scientific samples' would be counted within the commercial catch limits.

The problems of poor enforcement of regulations can, I suggest, only be solved by a combination of two actions: one, the declared intention by governments to strengthen and properly supervise their national inspectorates, reinforced by an IWC decision as to the minimum acceptable level and quality of inspection; the other the re-instatement of the IOS as it was originally proposed, with the accredited observers being directly and personally responsible to the Secretary of the IWC and their salaries and expenses paid for by the IWC. When the IOS was being negotiated in the 1960s there were proposals which were not adopted at the time that the observers should have nationalities of countries not engaged in whaling. This idea should be reinstated to enhance the credibility of any scheme. It goes without saying that catch limits should automatically be zero in areas where for any reason both national inspectors and international observers were not in place, throughout the season, on every vessel and at each landing location.

Perhaps in the long run, under a trustworthy management procedure, the problems of unethical behaviour will be resolved at the roots. Meanwhile, the first years of any resumed whaling could be very difficult ones for the overall ethic of conservation. They will be less difficult, and it may be more acceptable to a wider public, if no resumption were to be permitted until the necessary protective arrangements are in place, both as formal commitments by whaling countries and as specific provisions in the Schedule to the 1946 Convention.

Three sperm whales socialising underwater. Sperm whales were hunted for centuries mainly for industrial products, such as oil and spermaceti (waxy substance which occurs in their heads).

Photo Courtesy International Fund for Animal Welfare



WHY SHOULD WE CARE ABOUT WHALES?

Dr. Victor Scheffer *is a leading marine mammal scientist and writer. His books include "The Year of the Whale" and "A Natural History of Marine Mammals". He has served on the Marine Mammal Commission and is retired from the U.S. Fish and Wildlife Service. This article is taken from a presentation to the Second Biennial Conference and Symposium of the American Cetacean Society, in Monterey, California, November 1986.*

In the first place, we should care about whales because they 'have it coming', because our kind has hurt their kind so terribly. We have hunted them without pity. The kills peaked in one year at over 3,000,000 tons, and in another at 66,000 whales. Whilst you may feel no guilt for the killing, perhaps you will be moved by this analogy: is it not right that all U.S. citizens should feel compassion for the American Indian today, knowing that it was our forefathers who fragmented his populations?

In an essay on whale management, Jim Scarff has suggested that the market hunting of whales is unethical, in so far as it risks the extermination of species, is inhumane and is unnecessary. Let me develop these three points.

Point one: whaling endangers the species. It has reduced to less than ten per cent the original numbers of the seven most heavily hunted: the blue, humpback, right, bowhead, fin, sei and Bryde's. Ten per cent could be a dangerous level for any species whose ability to recover in the overlapping systems of the world ocean is so poorly understood. And recovery is limited, not only by environment, but by genetic factors. Reproduction and mortality in a small, rarified population are unlike those in a large one whose members are in close and frequent communication.

But 'extinction is not evil,' protests a scientist at the University of Illinois, 'it is normal and necessary.' Granted that *we don't* need all the ten million or more plant and animal species that populate earth. Granted that we could live nearly as well sharing the planet with only ten per cent, or even 100,000. That's not the point. Because we humans are the most thoughtful and value-conscious of all forms of life, and are co-evolving with ten million forms less richly endowed, we have a moral obligation to protect them – our cousins long removed – under the principle of *noblesse oblige*.

Point two: whaling is inhumane. Thirty years ago the United Nations called upon its member states 'to prescribe . . . methods for the capture and killing of marine life, especially of whales and seals, which will spare them suffering to the greatest extent possible.' The International Whaling Commission thought about this for 22 years. In 1980 it banned the cold harpoon, which kills by haemorrhage, for use against all whales except the little minke. It later extended the ban to all species. But the whale hunters still use the grenade harpoon, which kills by blowing iron fragments into the organs of the whale, slowing its escape until a coup-de grace harpoon can be fired three to seven minutes later. The best word that can be said for the grenade harpoon is that it is economical; the worst, that it is barbaric.

Point three: whaling is no longer necessary. Substitutes are known for the oils, proteins, drugs, fibres and fertilisers that whales have yielded in the past. More important, it is now clear that whaling is efficient only as a short-term business, and a very insensitive one. There is no evidence whatsoever that whales can be managed at a profit on a sustained yield basis. For example: there are not yet satisfactory estimates for any of the exploited stocks except for the Southern hemisphere and North Atlantic minkes. And the level of population at which any one species might steadily be exploited has yet to be determined. The reproductive rate of the great whales is low at best; certainly less than five per cent a year and perhaps as low as two per cent. So, although whaling was profitable when there were many whales and few controls over killing them, it is now shown to be an industry which, like redwood lumbering, can return profits only by operating on a rape-and-run schedule. This is deficit spending. It is stealing from our children.

In the light of the environmental age we are beginning to see values in *living* whales as well as dead ones: values that cannot be bought and sold. We are beginning to measure the importance of the benign uses of cetaceans. They contribute to television, radio and motion pictures; records, tapes and live performances; books, magazines, paintings, posters and sculptures; the pro-rated income of environmental organizations; whale-watching tours; and observational (or non-invasive) research.

At the Bergen Conference on Marine Mammals ten years ago, some of us put together rough estimates of the low-consumptive values of

Photo right: Blue whales; the largest animal ever to have lived. Commercial whaling reduced their numbers to less than one percent of the original population. They have been protected since 1967, but their numbers were reduced to such a critical level that blue whales are still an endangered species today.

Photo Courtesy Stanley M Minasian

cetaceans. The total approached $100 million at a time when the world catch of dead whales was also returning $100 million. Today, if the return from live whales has remained unchanged, and if the return from dead ones has fallen to $15 million, the value of a dead whale is only fifteen per cent of that of a live one.

Not to say that whaling and whalewatching could not coexist. But in a real world operating without an effective law of the sea under the rules of a weak International Whaling Commission, commercial whaling must be ended until such time as the nations can agree on a plan for protecting the capital stocks. Otherwise there will be neither whales nor whalewatching.

Photo right: Hundreds of pilot whales are still hunted in modern times in an extremely inhumane drive fishery which takes place all year round in the Faroe islands (200 miles north of Scotland). This whale was killed by cutting into its neck with a hand held knife.

A curious and friendly pilot whale comes face to face with the camera man, Bob Talbot.

Photo Courtesy Bob Talbot.

Although we may never reach consensus on the 'worth' of any non-human animal, nor the 'right' way to use it, continuing the dialogue about these imponderables can help us find (to use an old expression) our place in nature.

We should care about whales because they figure as icons or totems in the animal liberation movement. The image of the whale – the hero monster beset by enemies – has held for thirty years a prominence among other animal icons like the wolf, the falcon, grizzly bear and wild horse. Laurens van der Post believes that in animals there is a 'symbolism designed not only to increase our awareness of ourselves and the universe, but also to enlarge and heighten our consciousness of creation itself.'

So, as we reflect on man's maltreatment of whales we are moved to think about his maltreatment of other forms of wildlife and of domestic, laboratory and exhibit animals. Certain widely condoned practices are manifestly immoral. Witness the steel-trapping of fur-bearers, the bow-and-arrow hunting of deer for sport, the abuse of livestock in factory lines, and the handling of horses in rodeos. These cruelties, whether unintended or unexamined, are nonetheless hurtful. And when television portrays red blood flowing in the waters of Iki Island and the Faroes, we see not only dying whales but the destruction of life itself.

The animal welfare movement began as a fresh wind blowing in the 1960s when we were beginning to liberate disadvantaged groups in human society, including women, minority races and the handicapped. Peter Singer, one of the activists on the animal liberation front, uses the word 'speciesism' for 'bias towards the members of one's own species and against those of other species'. It is analogous to sexism and racism. Singer asks, 'If possessing greater intelligence does not entitle one human to exploit another, why should it entitle humans to exploit non-humans?' And Richard Ryder inquires: 'If it were one day found possible to cross a professor of biology with an ape, would the offspring be kept in a cage or in a cradle?'

The animal welfare movement in America is here to stay. In the year 1979 alone, four animal-welfare groups appeared: the Society for the Study of Ethics and Animals, the Scientists' Center for Animal Welfare, the Animal Rights Network, and the Attorneys for Animal Rights. By 1983, twenty American colleges were offering courses on ethics and animals. Whereas in 1955 there had been only two federal laws protecting animals, thirty years later there were fourteen. Congress had seen the light. It had agreed that humaneness is a matter not only within, but beyond, the warnings of individual conscience.

I find it significant that compassion for animals grows with personal growth. Steve Kellert, at Yale University, has long been studying American attitudes towards animals: how we perceive them and how we behave towards them. He finds that the attitude of the average high-school student towards animals is more 'utilitarian'. (Here I follow his terminology). The attitude of the average college graduate is distinctly more 'moralistic'.

If the whales now alive in the world ocean were to serve only as models in the shaping of a new ethic towards animals, that would be reason enough to spare them.

We should care about whales because they are marvellous and mysterious, forever a little beyond our grasp. The voice of the blue whale is the loudest of animal sounds and carries underwater for over a hundred miles. Toothed whales seem to use ultrasound to stun their prey. If so, we can understand how the beaked whales are able to feed though having teeth which seem incredibly faulty. The sperm whale dives to 10,000 feet where the pressure is over two tons per square inch, and holds its breath for more than an hour. The gray whale 'blows' in an explosion of air and water moving at 400 miles an hour. Barnacles commensal on the gray whale change in chemical structure as their host carries them down from arctic to subtropical waters. Thus there is preserved in the limey shells a 'ship's log' of

changing ocean temperatures: a record that offers a clue to the migratory path of the whale. Old photographs from a whaling station show the body of a humpback whale with hind legs fifty inches long. They were rudimentary, of course, but contained all the proper bones except the toes. The ancestors of the whales would have lost their legs at least thirty million years ago. What strange genetic meaning lingers in the humpback to challenge our imagination? (*Since this paper was written a whale fossil has been found with small and complete hind limbs*).

Small cetaceans continually surprise us with their ability to learn and imitate. Witness the pair of rough-toothed dolphins in an aquarium, one of which had been taught to jump through a hoop held high above the water, the other to retrieve, while blindfolded, a series of floating rings. Each animal had often watched the other's act. One morning the two performed uncertainly. The trainers were puzzled until they learned after the show was over that a caretaker had mistakenly put dolphin A in dolphin B's holding tank, and vice-versa. Each animal had copied the other's act.

Lou Herman and his team at the University of Hawaii are finding that the bottlenose dolphin can learn to identify individual objects in its pool and label them by 'voice', and to report the presence or absence of a specific object, and to know right from left. It can even distinguish between a noun and a verb, which is more than many of us who 'prioritize', 'finalize' and 'impact'. The dolphin takes language more seriously than we do.

But Karen Pryor's account of 'creativity' is perhaps the most intriguing. She once followed a hunch that dolphins have imagination; that in captivity, at least, they can initiate as well as imitate. So she taught a dolphin to expect a reward if it spontaneously tried something altogether new: if it did a backflip, or spit water at the trainer, or jumped upside down. All these are gymnastics that no rough-toothed dolphin had been known to perform.

What are we to make of that experiment? Can creativity in the organic world outside of man serve any useful purpose? In that world, conformity – not originality – has always been the safer Darwinian play.

An acrobatic Hawaiian spotted dolphin hurls itself high into the air in a spectacular leaping action.

Photo Courtesy Bob Talbot.

We should care about whales because they are beautiful. Within their ranks are some of the loveliest of all animals, a truth which, for centuries has led men and women to admire them. The feeling of humankind for whales is both primal and natural. In our own generation, thanks to the perfection of SCUBA and the undersea camera, we are learning to appreciate the whole beauty of whales: the precision of their swimming and the ease with which they move tons of flesh almost as we move our fingers.

Art being the language of emotion, we interpret whales through painting, sculpture, music, dance and drama. Even poetry. It is not far off the mark to think of a whale as the projection of a poetic mind. The British writer, Ted Walker, has given us the impression:

' . . . *Long granites grow, slowly awash with sun, and waves lap along black skin like the shine of a laving rain upon a city pavement. Together they come, yet alone they seem to lie. Massively still, they bask, breathing like men.*'

And in Tamar Griggs' book, *'There's a Sound in the Sea,'* composed mainly by children, little Margaret Rakas, aged ten, observes that:

'The men kill the whale
They do not waste the great whale
Except its great beauty'

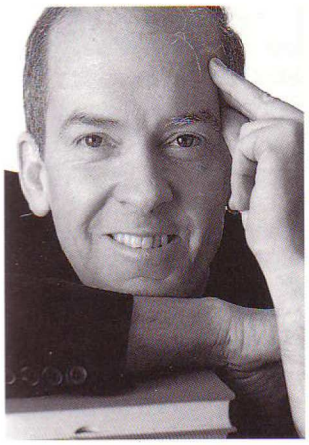
Finally, we should care about whales because they enrich our folklore. They seem to behave like people. The bull sperm whale 'takes revenge' on the wooden ship, sending it to the bottom. The orca rushes in to help the wounded companion, and we wonder: is sympathy with another in distress the germ of an ethic? The humpback whale not only sings but composes new songs. The spinner dolphin 'plays' happily in the blue between sea and sky. The gray whale, as though greeting a member of its family, swims towards the whalewatcher to be petted. Two dolphins in captivity will often make close friends, and one will seem to grieve if the other dies.

Whale afficionados like to point out that some cetacean brains are anatomically more impressive than ours. If, for example, the blubber coat were stripped from a narwhal, its brain-to-body weight would surpass that of a man. In the human brain, the neocortex or 'new brain' is well-developed, comprising about 96 per cent of all brain tissue. In the bottlenose dolphin, though, it comprises 98 per cent. Is the dolphin therefore wiser than the man?

There's nothing wrong, of course, about caring for whales because they resemble us, as long as we admit that our caring is grounded more in emotion than in science. 'We are,' according to Sean O'Faolain, 'for a great part of our lives at the mercy of uncharted currents of the heart.'

Whales are an earthly good, offering us moral and material support. Our attitude towards them should be sensitive and proportionate, based upon feeling, as well as knowing. One philosopher has observed that 'future historians will find our century remarkable for its breadth of knowledge and narrowness of value judgements. Never have humans known so much about, and valued so little in, the great chain of being.'

Caring about whales is a mark of personal and societal maturity. And it is good practice in caring: the most difficult assignment of *Homo sapiens* climbing toward humanity.



IS WHALING JUSTIFIABLE ON ETHICAL AND MORAL GROUNDS?

Dr. Roger Payne *is a biologist who, with Scott McVay, discovered that humpback whales sing. He has studied whales in all seven seas and observed in the wild every species of large whale that exists. He founded the Long Term Research Institute and is president of the Whale and Dolphin Conservation Society. He is a senior scientist at the World Wildlife Fund, his laboratory has conducted four major studies of the effects of whale-watch boats and of human-generated noises on whales. He has also pioneered many of the benign techniques for studying whales that are now in use worldwide. (He points out that he neither invests in the whale-watch industry nor receives funding from it, directly or indirectly.) Dr. Payne is a recipient of a MacArthur Fellowship and has been knighted in the Netherlands.*

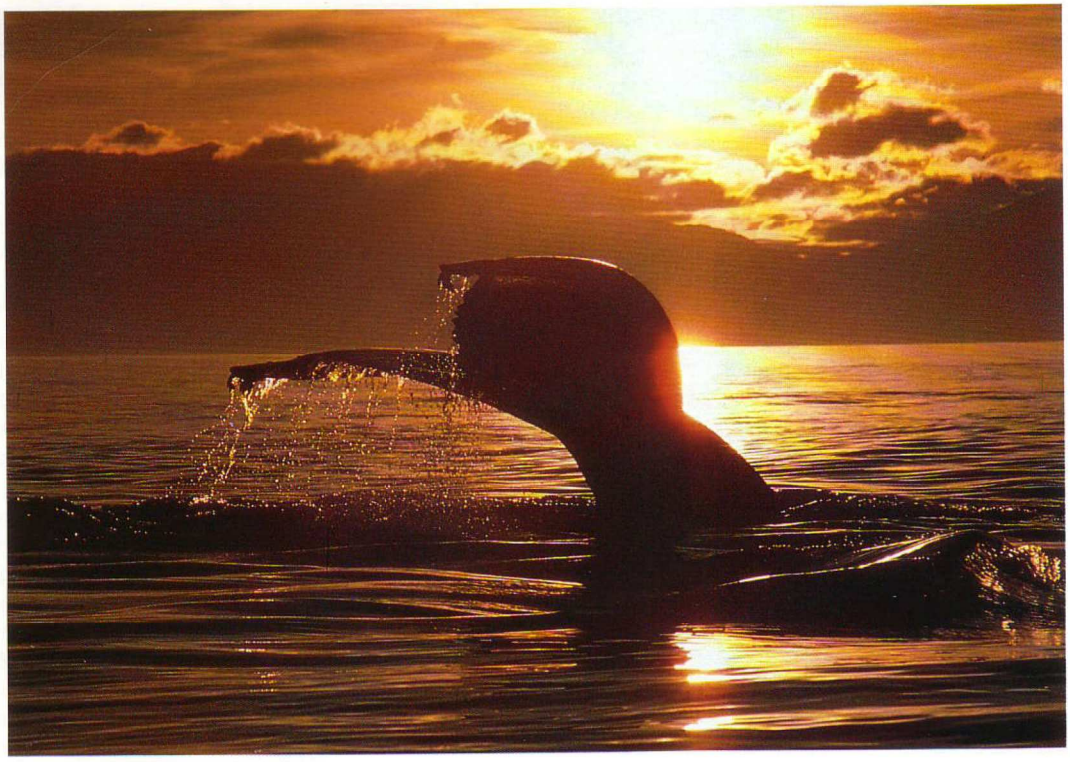
In trying to determine whether whaling is ethical, we need to decide whether animals, particularly whales, are proper objects of moral concern. One way to approach this is to look for something widely believed to be such an object and examine the characteristics which make it so. We can use people as our example but we soon find that when we narrow our definitions too much, it is not possible to be logically consistent without running into the necessity of excluding from the ranks of those worthy of moral concern, human infants, the insane, the comatose, the senescent, or criminals. When we go through the exercise of developing the full argument we find that to fall within the area of moral concern an entity must be alive, have interests and needs of which it is aware, and that it must be possible for these interests to be advanced or denied by another being which is capable of acting morally.

The pivotal point in the preceding argument which differentiates whales from, say, cancer cells (which we might have no moral qualms about killing) is that we need to be confident that life matters to whales – that they are aware of their lives. Cancer cells are not appropriate objects of moral concern because there is no basis for concluding they have interests of which they are aware. They can experience stimuli that impinge on them but not their lives as such.

So what evidence is there that whales possess enough neural sophistication to be aware of their lives and to have an interest in them? Neuro-anatomical comparisons between whale and human brains suggest that theirs have a complexity equal to or surpassing ours. But this approach gives no proof that they use their brains for anything we would recognize as self-awareness. So how can we be sure that whales have thought processes which constitute awareness when we cannot even be sure of the thought processes of our fellow humans? For example, when we watch someone who is thinking, we cannot be sure that anything at all is going on – for all we know they are simply day dreaming. We can sometimes deduce their thoughts by noting their ensuing actions. We can apply the same approach to whales, examining their behaviour for clues to their mental abilities, and looking within that behaviour for evidence of mind.

Most whale species are highly social animals which sometimes aid each other. They form long-lasting, dependent bonds between mother and young (typical of animals in whose lives learning plays an important role). Whales and dolphins show complex and varied play behaviour, both among themselves and with objects they encounter. When their companions die some porpoises may show the same classical signs seen in grieving humans, including loss of appetite, depressed breathing, widened pupils, respiratory changes, and withdrawal from social situations.

Many whale species sing songs, and humpback whales improvise upon their songs (within the constraints of a complex set of rules). The new material they put in their songs adds up after a few years to create completely new songs. The same



A humpback whale raises its flukes as it dives against the setting sun.

Photo Courtesy Bob Talbot

Roger Payne patting a right whale. The skin of whales is, like that of other mammals, highly sensitive.

Photo Courtesy Flip Nicklin

species also incorporates rhyme in its songs, but only in songs that are very complex, suggesting that, like humans, they may be using rhyming as a mnemonic device.

Given the evolutionary affinities between whales and primates it is simply not parsimonious (and is therefore bad scientific procedure) to argue that a better explanation for a long list of these and many similar complex behaviours is likely to be found in some set of unknown mental processes, distinct, even unrelated, to the kinds of neural activity going on in human brains which, during behaviours like these, are showing classic evidence of self-awareness and interest in their lives. We conclude therefore, in the absence of evidence to the contrary, that whales are aware of their lives and of their interests, simply because that seems to be the most parsimonious conclusion.

It must be borne in mind that the argument about which beings are proper objects of moral concern makes no judgement as to what is right or wrong when applied to either animals or people. It simply points out that, regardless of what moral theories are espoused, or what one believes to be right, logic demands that these theories and principles be applied to animals. The philosopher Kant argued that only rational beings are eligible for consideration under moral laws and used language as a dividing line between eligible and ineligible beings. But his argument really comes down to how much we depend on language to determine unequivocally what the needs and wants of another being are, rather than what falls within the territory of moral concern. The logical necessity of including living creatures as subjects of morality refutes Kant, and, as Rollin says, we find; "We have established that animals have a very basic right, *a right that is on a higher level than any particular right, namely, the right to be dealt with or considered as moral objects by any person who has moral principles, regardless of what those moral principles may be!"*

The basic aims of the whaling industry are the production of marketable goods and products for many purposes. But there are successful manufacturers that produce marketable products saleable for the same purposes to the same markets which do not cause the deaths of whales. These people can easily be identified; they are the manufacturers who do not use whale products, but who nevertheless compete successfully with the products produced by the whalers. These same manufacturers also demonstrate that the basic aims of the whaling industry can be achieved without products from whales. Since killing any animal robs it of all of its rights, it is wrong unless some unique justification for doing so is considered. Because all of the products which come from whales have much more abundant synthetic or naturally occuring alternatives, and because we can live rich, full lives without killing whales, the killing of them is gratuitous and therefore morally wrong.

Much has been made of the pain caused by the techniques used in killing whales. But, this is an entirely separate issue. Even if an entirely painless method could be found to kill them, it would not remove the immorality of killing whales. It would remove the wrong caused by the gratuitous suffering visited on whales by the current whaling techniques, but that would not make the killing of whales, to fulfill purposes which do not require their killing, any less wrong. If we were to take something that is morally wrong and make it less wrong, it is not made right. It remains morally wrong. If you could find a way to kill someone so painlessly that it did not even disturb their sleep, it would not make it morally right to kill them.

In the earliest attempts to stop whaling, the conservationists frequently charged whalers with cruelty. However, the term cruel has a specific meaning implying a particular mental state: specifically someone who enjoys damaging others or causing pain. But all people who cause pain are not necessarily cruel. For example, we do not think of all dentists or those who adminster painful treatments like chemotherapy as cruel just because they cause pain – just as people who love animals but eat meat are not necessarily cruel though they are causing pain. Indeed, there is no evidence to support the notion that whalers as a class contain a higher percentage of cruel people than the rest of humanity. It is time we realized this and stopped accusing all whalers of cruelty. We will not get on with the business of stopping the amoral practice of whaling if we destroy our opportunities of dialogue with its practioners by gratuitously insulting them. It may relieve frustration but it offers no real relief to whales and dolphins.

We see from the above that not just whales but many species must hold legitimate claim to moral concern. Getting many people to recognize this claim will require a major change in their intellectual and emotional views towards animals. The difficulty of achieving that is not a reason to delay the process. As John Stuart Mill put it, "Every great movement must experience three stages, ridicule, discussion, adoption."

I say; let us get on with this movement!

Close-up of a breaching humpback whale, the water runs down its grooved underside which adds to the beauty of this scene.

Photo Courtesy Bob Talbot

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Back cover
A family of humpback whales surface for air together.

Photo Courtesy Bob Talbot