

**GRINDING TO A STOP ON SEA SHEPHERD'S  
OPERATION GRINDSTOP AND OPERATION JAIRO:  
ANIMAL LAW ADVOCACY, DIRECT ENFORCEMENT, AND COLONIALISM**

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Animal Law Advocacy, Direct Enforcement, and Colonialism

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## Abstract

Direct enforcement, originally coined by Eilstrup-Sangiovanni and Phelps Bondaroff, can be defined as a subcategory of direct action that claims to enforce a law. The author examines how anti-colonialism, anti-racism, tokenism, colonialism, statism, racism, whiteness, developmentalism, and neoliberalism operated within two direct enforcement campaigns: Sea Shepherd's Operation GrindStop and Sea Shepherd's Operation Jairo. Drawing on scholarship, media, and her own experiences of the campaigns, she examines how Operation GrindStop and Operation Jairo contributed to and profited from racialized and civilizing narratives of donor countries (such as the United States, France, Australia, England, and Germany) through denigrating non-Euro-Americans—labelling them as uncivilized, deceptive, criminals, “barbarians,” “psychopaths,” and “thugs.” Although the long-term effects of these campaigns remain to be seen, she argues that each campaign failed to fulfill Sea Shepherd's stated goals, negatively impacted future campaign opportunities in their respective regions, and were unsuccessful at establishing sustainable and meaningful change in either region. She contends that this ineffectiveness was compounded by the organization's disregard of the cultural, racial, and colonial implications of their mobilization of direct enforcement and their promotion of civilizing narratives.

As an alternative to the approach taken by Sea Shepherd, she identifies other enforcement and non-enforcement related projects operating in Costa Rica and the Faroe Islands, such as Marna Frida Olsen's project, Grindaboð, and media projects such as *Grindahvalur*. She argues that those mobilizing direct enforcement campaigns could be more effective at protecting the lives of animals and make their ambiguous anti-colonial agenda explicit through learning from and/or working with Indigenous land defence campaigns and activists such as the Unist'ot'en Camp. She considers to what extent Sea Shepherd's recent Operation Virus Hunter campaign, which worked alongside Musgamagw Dzawada'enuxw Cleansing Our Waters, may represent a shift in this anticolonial direction.

Ultimately, this thesis articulates how direct enforcement has been mobilized in ineffective ways that reproduce colonial narratives; it also reserves hope and provides direction for organizations, such as Sea Shepherd, by drawing on anti-colonial activism and scholarship to demonstrate practical methods to challenge these trends.

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## Chapter 1: Introduction

*It is 12:46 a.m., March 26, 2014. My cursor hovers over the “Apply Today!”<sup>1</sup> button on the call for volunteers to Operation GrindStop 2014. The campaign is organized by Sea Shepherd Conservation Society, an “international non-profit marine wildlife conservation organization”<sup>2</sup> that aims to enforce law—also known by its acronym SSCS or, simply, Sea Shepherd.*

*Beneath the question, “Why would you like to volunteer for Operation GrindStop 2014?” I type, “I want to get my hands dirty or, maybe more appropriately, my feet wet—drenched. I aimed to work directly on the ground to increase awareness around and prevent the death of nonhumans. The research I did for my undergraduate degree focused so much on the theories around how humans should treat nonhumans, but the ivory tower of academia feels so removed from what I want to be doing: helping animals in real time. Through this experience, I hope to reflect on grassroots organizations and bring a more 'radical' advocacy back into the university so that my movements will mobilize others in the university community . . . Sea Shepherd is an incredible organization, and I am very excited to be a part of it in whatever capacity I can.”<sup>3</sup>*

*I press “Send.”*

The basis of my application to Operation GrindStop was my admiration of Sea Shepherd for their promotion of vegan ethics,<sup>4</sup> criticism of colonialism,<sup>5</sup> and defense of law.<sup>6</sup> I was initially drawn to Sea Shepherd after reading publications by its founder, Canadian

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<sup>1</sup> Sea Shepherd Conservation Society, "A Call for Planetary Duty!" *Sea Shepherd Conservation Society*, accessed October 21, 2016, <http://www.seashepherd.org/get-involved/ground-crew.html>.

<sup>2</sup> Sea Shepherd Conservation Society, "Who we are," *Sea Shepherd Conservation Society*, accessed October 21, 2016, <http://www.seashepherd.org/who-we-are/>.

<sup>3</sup> Ellen Campbell, GrindStop Application, March 26, 2016.

<sup>4</sup> Paul Watson, ““V,”” *Sea Shepherd Conservation Society*, May 6, 2016, <http://www.seashepherd.org/commentary-and-editorials/2014/05/06/v-648>.

<sup>5</sup> As an example of their work to challenge colonialism, in December of 1991, SSCS “seized and held” the *Santa María*, a replica of the ship Christopher Columbus used in his first voyage, which would set the stage for the colonization of the Americas. They did so “until the Spanish Consul in Puerto Rico sign[ed] a letter of apology for five hundred years of injustice to the indigenous peoples of the Americas.” Sea Shepherd Conservation Society, "The History of Sea Shepherd," *Sea Shepherd Conservation Society*, accessed October 19, 2016, <http://www.seashepherd.org/who-we-are/our-history.html>.

<sup>6</sup> Ibid.



deep ecologist and activist Paul Watson. Moved by what he perceived as inaction from governments, politicians,<sup>7</sup> ecologists,<sup>8</sup> and the “‘eco-intelligentsia,’ or the ‘eco-diplomatic corps,’”<sup>9</sup> he established Earth Force Society in 1977, which would become Sea Shepherd Conservation Society in 1981.<sup>10</sup> Since its origins in the late 1970s activism of Vancouver, Sea Shepherd’s mission has become “to assume a law enforcement role . . . act[ing] on behalf of international conservation law.”<sup>11</sup> *Whale Wars*, a reality television series which depicted activists performing direct action tactics (notably, ramming their boats into whaling vessels in the name of enforcing said conservation laws), helped popularize the organization. With Sea Shepherd’s law enforcement role in mind, I hoped to save whales by contributing to SSCS’ “innovative direct action tactics,”<sup>12</sup> herein referred to as “direct enforcement” tactics. “Direct enforcement” is a term that was coined by Mette Eilstrup-Sangiovanni and Teale Phelps Bondaroff in 2014<sup>13</sup> and expanded on in Phelps Bondaroff’s 2014 doctoral dissertation, “Direct Enforcement on the High Seas: The Strategy of the Sea Shepherd Conservation Society.”<sup>14</sup> To my knowledge, the term “direct enforcement” has yet to receive

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<sup>7</sup> Paul Watson, "Waltzing with the Academic Critics of Tasmania," Captain Paul Watson (Facebook page), January 13, 2015, <https://www.facebook.com/captpaulwatson/posts/10152932405985932>.

<sup>8</sup> Lamya Essemlali and Paul Watson, *Captain Paul Watson: Interview with a Pirate* (Buffalo, N.Y: Firefly Books, 2013), 19.

<sup>9</sup> *Ibid.*, 12.

<sup>10</sup> Paul Watson, "The Game is on the Field, Not in the Stands - A Commentary on Critics," *Captain Paul Watson* (Facebook page), October 25, 2015, <https://www.facebook.com/captpaulwatson/posts/10153570559115932:0>.

<sup>11</sup> Sea Shepherd Conservation Society, "Who we are."

<sup>12</sup> *Ibid.*

<sup>13</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation: Direct Enforcement by Environmental NGOs," *International Studies Quarterly* 58, no. 2 (2014): 348-361, doi: 10.1111/isqu.12132, 348.

<sup>14</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas: The Strategy of the Sea Shepherd Conservation Society," doctoral dissertation, University of Cambridge, 2013, 171.

widespread critical attention within the animal advocacy community; however, the term is useful as it designates direct action done to enforce law. Direct enforcement, as I explore in this thesis, can be an effective tactic when applied to laws not recognized by Western juridico-political discourse—for example, in Indigenous land defence campaigns. However, the way it has been theorized by Eilstrup Sangiovanni and Phelps Bondaroff, and mobilized by organizations, such as Sea Shepherd, give pause for thought. In addition to their enforcement-focused mandate, my admiration of Sea Shepherd was influenced by founder Paul Watson’s encouragement of veganism and condemnation of colonialism.<sup>15</sup> I considered such stances central to ensuring their effective defence of marine life through law. However, I was confused by the discrepancies between (1) Sea Shepherd’s apparent criticism of human exceptionalism<sup>16</sup> (through their appeals to biocentrism and veganism, and their critiques of colonialism) and (2) allegations from aboriginal communities, scholars, and animal activists, that Sea Shepherd’s campaigns to enforce conservation laws were neocolonial, ecocolonial, and racially motivated.<sup>17</sup> I became interested in addressing the following questions: First, did

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<sup>15</sup> Lamya Essemlali and Paul Watson, *Captain Paul Watson: Interview with a Pirate*, Page 53.

<sup>16</sup> Human exceptionalism can be understood as the privileging of humans over non-humans, or the favouring of some humans over those that are considered “subhuman.”

<sup>17</sup> Rob Van Ginkel, "The Makah Whale Hunt and Leviathan's Death: Reinventing Tradition and Disputing Authenticity in the Age of Modernity," *Etnofoor* 17, no. 1/2 (2004): 58-89, [https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj3cysj-3PAhVW9WMKHaPyAvAQFggeMAA&url=http%3A%2F%2Fwww.uva.nl%2Fbinaries%2Fcontent%2Fdocuments%2Fpersonalpages%2Fg%2Fi%2Fr.j.vanginkel%2Fen%2Ftab-two%2Ftab-two%2Fcpitem%255B18%255D%2Fasset%3F1355373419337&usq=AFQjCNGkXAXSGQ6Ofe8kQTBFBU3uqFfIga&sig2=5SG\\_TxvouoEa6HpmCJ1bQ](https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj3cysj-3PAhVW9WMKHaPyAvAQFggeMAA&url=http%3A%2F%2Fwww.uva.nl%2Fbinaries%2Fcontent%2Fdocuments%2Fpersonalpages%2Fg%2Fi%2Fr.j.vanginkel%2Fen%2Ftab-two%2Ftab-two%2Fcpitem%255B18%255D%2Fasset%3F1355373419337&usq=AFQjCNGkXAXSGQ6Ofe8kQTBFBU3uqFfIga&sig2=5SG_TxvouoEa6HpmCJ1bQ), 67; Richard Black, "Playing the Politics of Whaling," *British Broadcasting Corporation*, June 24, 2009, [http://www.bbc.co.uk/blogs/thereporters/richardblack/2009/06/at\\_the\\_international\\_whaling\\_c\\_1.html](http://www.bbc.co.uk/blogs/thereporters/richardblack/2009/06/at_the_international_whaling_c_1.html); Hiko Saemon, "Why should Japan Debate with ‘Cultural Fascists’ Over Taiji when it is Already Winning?," *HikoTube* (blog), January 25, 2014,

Sea Shepherd's mobilization of direct enforcement participate in colonial discourses that privileged Western, neoliberal, and developmentalist world views, despite their stance against them, and, if so, did said privileging affect the outcome of the campaigns? Second, if Sea Shepherd's mobilization of direct enforcement was affecting the campaigns negatively, how could groups mobilizing the tactic of direct enforcement do so in ways that that did not reproduce colonialism?

### **1.1 Critical Animal Studies**

In pursuing these questions both while I was on and off campaign, I turned to scholarship and activism coming out of the interdisciplinary field of critical animal studies. This research further enhanced my understanding of the direct action tactic, especially after I began encountering the field's widespread criticism of Sea Shepherd. Critical animal studies (CAS) is a relatively new field and takes an intersectional approach to extending moral consideration to animals by highlighting the concealed, systemic, and normalized exploitation of animals. CAS fundamentally objects to animal exploitation in agriculture, experimentation, vivisection, dissection, domestication, fashion, breeding, hunting, and entertainment. Further, CAS is opposed to what has become known as the "humane myth," maintaining that "industries that are based on the imprisonment and killing of animals cannot sensibly be described as having concern for their 'welfare.'"<sup>18</sup> Crucially, CAS is rooted in opposition to anthropocentrism: an institutionalized inequality that

stems from a deep conviction of human exceptionalism and a lack of understanding of how oppression of other animals and of human groups is entangled. Rather than

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<http://www.hikosaemon.com/2014/01/why-should-japan-debate-with-cultural.html?view=classic>.

<sup>18</sup> Anthony J. Nocella, John Sorenson, Atsuko Matsuoka, and Kim Socha, *Defining Critical Animal Studies: An Intersectional Social Justice Approach for Liberation*, vol. 1 (New York: Peter Lang, 2013), xvi.

accepting the false binary that suggests that one must be concerned either about humans *or* about other animals, critical animal studies sees the intersectionality of oppression and suggests that speciesism—the oppression of animals—constitutes a basic form of oppression that provides a structure for the oppression of other humans.<sup>19</sup>

The intersectionality of CAS is based on a critique of human exceptionalism and, as such, CAS sees all oppressive ideologies, such as speciesism, racism, colonialism, ableism, heterosexism, cissexism, and so on as grounded in anthropocentrism. CAS posits that oppression can only be challenged when these intersections are acknowledged.

Doing intersectional work necessitates cultivating a holistic understanding of the many forms oppression takes. CAS is interdisciplinary, feminist and activist led, and includes insights from critical race theory,<sup>20</sup> decolonialism,<sup>21</sup> anticolonialism,<sup>22</sup> critical disability

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<sup>19</sup> Sorenson, John, ed. *Critical Animal Studies: Thinking the Unthinkable*. Toronto: Canadian Scholars' Press, 2014, xv.

<sup>20</sup> Claudio Serrata, "Ecological Indigenous Foodways and the Healing of all our Relations," *Journal of Critical Animal Studies* 8, no. 3 (2010): 52-61, <http://www.criticalanimalstudies.org/wp-content/uploads/2012/09/JCAS-Special-Issue-Women-of-Color-November-FINAL-2010.pdf>.

<sup>21</sup> Billy-Ray Belcourt, "Animal Bodies, Colonial Subjects: (Re)Locating Animality in Decolonial Thought," *Societies* 5, no. 1 (2015): 1-11, doi: 10.3390/soc5010001, 2.

<sup>22</sup> Dylan Powell and Amanda Lickers, *Anti-Colonialism & Animal Liberation*, Burning Hearts Media, Presented at Resistance Ecology, Portland, 2015, <https://vimeo.com/132293327>.

studies,<sup>23</sup> posthumanism,<sup>24</sup> ecofeminism,<sup>25</sup> LGBTTIQQ2SA+ theory and activism,<sup>26</sup> animal liberation movements,<sup>27</sup> food justice movements,<sup>28</sup> transfeminism,<sup>29</sup> environmental justice,<sup>30</sup> and anarchism.<sup>31</sup> Understanding the ways in which oppression manifests, CAS asserts that

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<sup>23</sup> Taylor, Sunaura, "Animals, Ableism, Activism," *Journal of Visual Art Practice* 12, no. 3 (2013): 235–244, doi: 10.1386/jvap.12.3.235\_1, 235.

<sup>24</sup> Jodey Castricano, *Animal Subjects: An Ethical Reader in a Posthuman World* (Waterloo, ON: Wilfrid Laurier University Press, 2008), [https://books.google.ca/books?id=xZ3aAAAAMAAJ&redir\\_esc=y](https://books.google.ca/books?id=xZ3aAAAAMAAJ&redir_esc=y).; Cary Wolfe, *What is Posthumanism?*, vol. 8 (Minneapolis: University of Minnesota Press, 2009).; Jodey Castricano and Lauren Corman, *Animal Subjects 2.0*, (Waterloo, ON: Wilfrid Laurier University Press, 2016), [https://books.google.ca/books/about/Animal\\_Subjects\\_2\\_0.html?id=UZyzjgEACAAJ&redir\\_esc=y](https://books.google.ca/books/about/Animal_Subjects_2_0.html?id=UZyzjgEACAAJ&redir_esc=y).; Helena Pedersen, "Release the Moths: Critical Animal Studies and the Posthumanist Impulse," *Culture, Theory and Critique* 52, no. 1 (2011): 65, doi: 10.1080/14735784.2011.621663.

; Anthony J. Nocella, John Sorenson, Atsuko Matsuoka, and Kim Socha, *Defining Critical Animal Studies*, xxvi.

<sup>25</sup> Dinesh Wadiwel, Nik Taylor, and Richard Twine, "An Interview Alongside Nik Taylor and by Dinesh Wadiwel - the Rise of Critical Animal Studies Interview," accessed October 23, 2016, <http://www.richardtwine.com/RiseInterview.pdf>.

<sup>26</sup> Nathan Stephens Griffin, "A Queer Approach to Speciesism," *Journal of Critical Animal Studies* 10, no. 3 (2012): 119-127, <http://www.criticalanimalstudies.org/wp-content/uploads/2012/10/Volume-10-Issue-3-2012.pdf>.

<sup>27</sup> "What is Critical Animal Studies?" *Animal Liberation Front*, Accessed October 21, 2016, <http://www.animalliberationfront.com/Philosophy/ICAnimalStudies.htm>.

<sup>28</sup> Lauren Ornelas, *Communities of Color and Access to Food*, presented at the 11<sup>th</sup> Annual North American Conference for Critical Animal Studies, Buffalo, March 2-4, 2012, <https://animalvoices.ca/2012/03/20/highlights-from-the-11th-annual-north-american-conference-for-critical-animal-studies-part-2/>.

<sup>29</sup> Anja Koletnik, "Ethical Trans-Feminism: Berlin's Transgender Individuals' Narratives as Contributions to Ethics of Vegetarian Eco-Feminisms" (master's thesis, Central European University, 2014), [http://www.etd.ceu.hu/2014/koletnik\\_anja.pdf](http://www.etd.ceu.hu/2014/koletnik_anja.pdf); Petra Dierkes-Thrun and Susan Stryker, "Transgender Studies Today: An Interview with Susan Stryker," *boundary 2*, August 20, 2014, <https://www.boundary2.org/2014/08/transgender-studies-today-an-interview-with-susan-stryker/>.

<sup>30</sup> Amy J. Fitzgerald and David Pellow, "Ecological Defense for Animal Liberation: A Holistic Understanding of the World," in *Defining Critical Animal Studies*, ed. Anthony J. Nocella, John Sorenson, Atsuko Matsuoka, and Kim Socha, 28-50 (New York: Peter Lang, 2014), 28.

<sup>31</sup> Anthony J. Nocella, John Sorenson, Atsuko Matsuoka, and Kim Socha, *Defining Critical Animal Studies*, xxii.

activism is key to dismantling oppression; CAS, more than an academic field, asserts that “intersectional transformative holistic theory-to-action activist led” movements are the only ways to “dismantle all systems of domination and oppression” and create a “just, equitable, inclusive and peaceful world.”<sup>32</sup>

CAS theory thus also inspired my fieldwork because it reinforced my need for theory-to-action scholarship and activism. Anthony J. Nocella II, John Sorenson, Kim Socha, and Atsuko Matsuoka argue that CAS was established to challenge scholarship that

reinforces the socially constructed human-animal binary through which detached scholars look at animals as objects without agency that exist to be theoretically studied and examined[;]. . . promote injustice by being part of oppressive organizations, corporations, cultural traditions, and personal practices. . . [and/or] feel no ethical or political commitment to others but regard our relationships with them as merely as interesting problems of academic exploration.<sup>33</sup>

CAS not only serves as a critique of anthropocentrism but also seeks to interrupt pervasive approaches towards animals in academia such as Human-Animal Studies and Animal Studies, where these fields ostensibly privilege theory, ignore activism, and reinforce a human-nonhuman binary (for example, through animal use, including dissection and research, in education).<sup>34</sup> Unlike the prevalent apolitical and disinterested approaches to the traditional studies of animals cited above, CAS sees scholarship as a form of conceptual

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<sup>32</sup> Institute of Critical Animal Studies "About," *Institute of Critical Animal Studies*. Accessed October 19, 2016, <http://www.criticalanimalstudies.org/about/>.

<sup>33</sup> Anthony J. Nocella, John Sorenson, Atsuko Matsuoka, and Kim Socha, *Defining Critical Animal Studies*, xxiii, xxiv.

<sup>34</sup> *Ibid.*, xxvii.

activism,<sup>35</sup> situating research and teaching on a continuum with activism,<sup>36</sup> and encouraging scholars to take part in activism.<sup>37</sup>

### 1.1.1 Operation Jairo and Operation GrindStop

In the spirit of my challenge to study direct enforcement from both personal and theoretical levels, I submitted my application to Operation GrindStop to bring theory and practice more explicitly together in my work. This campaign can be conceptualized as largely reliant on direct enforcement, as is clear through the campaign description: Operation GrindStop is “in defense of the pilot whales and other dolphins on land and at sea . . . monitoring the 23 bays, deterring dolphins from shore, and taking direct action to intervene against a grind [whale slaughter] if necessary,” in addition to taking part in outreach initiatives.<sup>38</sup> The *grindadráp* or, for short, *grind*, is a traditional opportunistic whale slaughter dating back to at least 800 ACE that occurs in the Faroe Islands, an archipelago above Scotland colonized<sup>39</sup> in the fourth century by the Norse and then these populations were later

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<sup>35</sup> Aph Ko, “Afrofuturism and Black Veganism: Towards a New Citizenship,” *Aphro-ism* (blog), February 24, 2016, <https://aphro-ism.com>.

<sup>36</sup> Anthony J. Nocella, John Sorenson, Atsuko Matsuoka, and Kim Socha, *Defining Critical Animal Studies*, xxvii; Carol Glasser and Arpan Roy, “The Ivory Trap: Bridging the Gap between Activism and the Academy,” In *Defining Critical Animal Studies: An Intersectional Social Justice Approach for Liberation*, edited by Anthony J. Nocella, John Sorenson, Atsuko Matsuoka and Kim Socha, 89-109, 2nd ed. (New York: Peter Lang, 2014), 90.

<sup>37</sup> Lauren Corman and Tereza Vancrocová, “Radical Humility: Toward a More Holistic Critical Animal Studies Pedagogy,” In *Defining Critical Animal Studies: an Intersectional Social Justice Approach for Liberation*, edited by Anthony J. Nocella, John Sorenson, Atsuko Matsuoka and Kim Socha, 134-157, 2nd ed. (New York: Peter Lang, 2014), 152.

<sup>38</sup> Sea Shepherd Conservation Society “About the Campaign,” *Sea Shepherd Conservation Society*, Accessed October 21, 2016, <http://www.seashepherd.org/grindstop/about-campaign/about-the-campaign.html>.

<sup>39</sup> This phrasing was used by Russel Fielding in his discussion of the settlement of the Faroe Islands, a phrasing that I continue here to signify that colonialism also affects nonhuman animals and landscapes—importantly, for the Faroe Islands, through sheep farming, fish farming, effects on wild bird, whale, and fish populations.

colonized by Denmark. While it has been regulated under Faroese national law since the early twentieth century, Sea Shepherd frames the *grindadráp* as illegal. Taking part in this campaign in real time enabled me to study how direct enforcement could be effective in challenging what Jacques Derrida refers to as the “superstructures of law that both hide and reflect the economic and political interests of the dominant forces of society.”<sup>40</sup> Furthermore, my participation in the campaign uncovered how Sea Shepherd’s use of direct enforcement reinforced said superstructures and how this effected the outcome of the campaign. While it is not insignificant that Sea Shepherd’s enforcement of laws saved one pod of whales in 2014, my research indicates that Sea Shepherd’s deployment of the enforcement tactic has, possibly irreparably, alienated both local activists and Faroese people, compromising the campaign’s stated intent to provide local outreach.

Hoping to raise awareness about the tactic of direct enforcement and the possibilities it creates for challenging the superstructures in law, this thesis also includes reflections on my later experiences in Operation Jairo. Operation Jairo was a 2015 sea turtle defense campaign that operated out of Costa Rica, Honduras, and Florida. The Costa Rica campaign, like Operation GrindStop, was a land-based direct enforcement campaign. Despite both national and international law that prevented it, the poaching of sea turtles and their eggs continues alongside the murder, rape, kidnapping, and attack of the activists who had set out to protect them in Costa Rica. This situation received international attention when Jairo Mora Sandoval, a turtle conservationist after whom the campaign was named, was murdered on the

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<sup>40</sup> Jacques Derrida, *Acts of Religion*, Edited by Gil Anidjar, New York: Routledge, 2002, <https://books.google.ca/books?id=5n-kpSC8m2YC&printsec=frontcover#v=onepage&q&f=false>, 243.



31<sup>st</sup> of May, 2013. Sea Shepherd's Operation Jairo, Costa Rica campaign description stated that the campaign aimed to enforce said legislation, inferring that without Sea Shepherd, "the turtle eggs of Moín [would be left] unprotected."<sup>41</sup> Operation Jairo, Costa Rica's clear use of enforcement dialogue through their reference to international laws and their appeal to words such as "defense," "protect," and so on further situate this campaign in terms of direct enforcement.<sup>42</sup> I use my participation in the campaign in my critique of Sea Shepherd's use of the direct enforcement tactic, which centers on the ways the campaign tokenized and alienated local activists.

Reflecting on my experiences of two direct enforcement campaigns and on the theories of direct enforcement using critical animal studies and critical race studies, I became aware of how the direct enforcement tactic, both in theory and in practice, paradoxically reinforced the legal privileging of those considered human over those considered sub-human. While I will discuss this paradox in the context of direct enforcement, it is relevant to this thesis to note that the sub-human historically has referred not only to animals, but also to all who have been considered less than human, or animalized, and thus not considered morally, regardless of whether they belong to the category *homo sapiens sapiens*. All too often, these subhumans are labelled animals, despite how humans, too, are animals. As Claire Jean Kim argues, these categories have functioned as a mechanism by which oppressors rationalize the oppression of others. This systemic violence is part of a larger history of exploitation and oppression. As Claire Jean Kim puts it,

We have been at it for millennia, this project of animalizing animals or making them what we need them to be so that we can imagine ourselves the way we want to. According to Gary Steiner (2010), Plato and Aristotle's enshrinement of "reason" as

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<sup>41</sup> Sea Shepherd Conservation Society, "Pacuare Beach, Costa Rica."

<sup>42</sup> Sea Shepherd Conservation Society, "Pacuare Beach, Costa Rica."

the faculty marking superior beings was a critical development in this process, as was the Stoics' insistence that animals existed entirely for the sake of humans. The Bible (Old and New Testaments) indicated that humans were superior to other animals because they possessed a soul and that this justified their dominion (originally mild; after the fall, harsher) over the latter. Then there was René Descartes, writing in the seventeenth century. For Descartes, humans were defined by soul, mind, thought, and language: *Cogito, ergo sum* (I think, therefore I am). Animals, on the other hand, were machines, pure matter, bodies unencumbered by souls or minds, and when they cried out upon being dissected while fully conscious, Descartes insisted that they were not feeling or expressing pain but making mechanical noises like a clock might make if certain mechanisms within it were triggered. By the time eighteenth-century utilitarian philosopher Jeremy Bentham pointed to animal sentience to argue for the moral considerability of animals—recall his famous quote, “The question is not, can they reason? Nor, can they talk? But, can they suffer?” (Bentham 1948)—he was swimming against the tide of Western theology and philosophy.<sup>43</sup>

This larger history, of course, is not complete without understanding how the category of the sub-human has included humans that have been marginalized, feminized, and animalized by Western cultures, such as colonized peoples as each of these discourses referenced by Kim arose from androcentric, Euro-American points of view.

Bringing this history and scholarship into focus with my own activism, I address how, while the Sea Shepherd campaigns were presented as non-prejudicial<sup>44</sup> and critical of colonialism,<sup>45</sup> aspects of colonialism and racism were minimized in the operational work of SSCS in Operation GrindStop and Operation Jairo. And I argue how, as part of this, Operation Jairo was complicit in the erasure, endangerment, diminution, and tokenization of local activists. Further, I contend that this direct enforcement tactic reinforced and enabled

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<sup>43</sup> Claire Jean Kim, "The Wonderful, Horrible Life of Michael Vick," in *Ecofeminism: Feminist Intersections with Other Animals and the Earth*, ed. Carol J. Adams and Lori Gruen, 110-121 (New York: Bloomsbury, 2014), <https://books.google.com/books?isbn=1628926228>, 115.

<sup>44</sup> Sea Shepherd Conservation Society, "Equality Statement," *Sea Shepherd Conservation Society*, Accessed October 21, 2016, <http://www.seashepherd.org/who-we-are/equality-statement.html>.

<sup>45</sup> Sea Shepherd Conservation Society, "The History of Sea Shepherd."

state failure to implement laws that protect local activists, not to mention the animals they were trying to save, or to disproportionately spotlight state initiatives. Moreover, SSCS's use of direct enforcement alienated the communities they ostensibly wanted to engage. For example, Sea Shepherd Conservation Society and founder Paul Watson's categorizations of communities they were working to change as uncivilized,<sup>46</sup> law-breaking,<sup>47</sup> "barbarians," "psychopaths," and "thugs"<sup>48</sup> alienated communities by perpetuating racism and colonialism. Such words exist within a larger history in which Euro-American colonialists and white supremacists tried to describe the individuals they were colonizing and murdering. Operation Jairo and Operation GrindStop's mobilizations of direct enforcement are representative of larger unquestioned regimes of neoliberal whiteness within activist movements. In addition, SSCS' Operation GrindStop's campaign can be tied to the increasing numbers of local individuals involved in the *grindadráp*. Further, the low number of sea turtles saved on Operation Jairo in Costa Rica and the disregard of Costa Rican activists and the mortal threats they face, despite claims to be taking part in Operation Jairo in their honour, serve as examples of how mobilizations of direct enforcement can be ineffective.

While I did not realize it at the time, my analysis of Operation GrindStop and Operation Jairo from my perspective as a CAS scholar-activist would bring me to the

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<sup>46</sup> Paul Watson, "A Note to all the Pro-Whale Murdering Sea Shepherd Haters in the Faroe Islands," *Sea Shepherd Conservation Society*, July 7, 2014, <http://www.seashepherd.org/commentary-and-editorials/2014/07/07/note-to-all-the-pro-whale-murdering-sea-shepherd-haters-in-the-faroe-islands-657>.

<sup>47</sup> Paul Watson, "The Day After the Slaughter," *Sea Shepherd Conservation Society*, August 31, 2014, <http://www.seashepherd.org/commentary-and-editorials/2014/08/31/the-day-after-the-slaughter-667>.

<sup>48</sup> Paul Watson. "A Cruel and Remorseless Slaughter Today on the Beach in the Ferocious Isles," *Captain Paul Watson* (Facebook page), August 26, 2016, <https://www.facebook.com/captpaulwatson/posts/10154244597870932>.

trailhead of my Master's research, and to my research question: Do organizations employing direct enforcement challenge or reinforce the structural and covert oppression of those considered less than human? Investigating direct enforcement from both personal and conceptual vantage points has led me to the aims of this thesis. First, I evaluate theorizations of the tactic of direct enforcement. Second, I address how organizations use direct enforcement to challenge legislation and enforcement practices that ostensibly protect animals. Third, I draw on CAS, Indigenous studies, and activism to provide concrete recommendations that aim to bring activists, scholars, and communities together to facilitate the common aim of extending ethical concern to the more-than-human world through intersectional politics.

In particular, in the coming chapters, I establish how direct enforcement's focus on Euro-American law and enforcement practices contributes to what critical animal studies and Indigenous studies scholar Billy-Ray Belcourt calls, in a separate but related context, a "neoliberal delusion of progress that repackages colonial domination by vacating anthropocentrism from political rhetoric without questioning the very parameters through which such rhetoric is militarized."<sup>49</sup> Current uses and definitions of direct enforcement fail to address the ways that laws and enforcement practices reinforce the human/subhuman divide that CAS remains so critical of. This failure further obscures a genealogy of Western legal systems structured in anthropocentrism, colonialism, racism, and neoliberalism. In the absence of critical engagement with how neoliberal whiteness, racism, and colonialism are manifested beyond overt forms of violence by organizations or theorists, I address how

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<sup>49</sup> Billy-Ray Belcourt, "Animal Bodies, Colonial Subjects: (Re)Locating Animality in Decolonial Thought," 6.

theoretical and organizational framings of direct enforcement reiterate the anthropocentric divide between the human and the sub-human.<sup>50</sup> This thesis analyzes two Sea Shepherd campaigns, based in part on my own experiences, to show the limitations of direct enforcement in theory and practice.

## **1.2 Methodology**

### **1.2.1 Methodology: Autoethnography**

Recognizing how both my personal experiences on campaign and of CAS scholarship as a white, cisgendered, queer, able-bodied individual who grew up and did her research on unceded territory have influenced my thesis, I use personal narrative, scholarly publications, Indigenous zines, news articles, and Facebook posts to represent shifts or changes in my approach to and understanding of animal law advocacy and scholarship. Based on the rallying slogan attributed to 1960s student and second-wave feminist movements that “the personal is political,”<sup>51</sup> and the theory-to-action politics of CAS, I use critical animal studies to theorize direct enforcement relative to my own experiences of campaigns that use the tactic, and thus to critique anthropocentrism and colonialism in current framings of direct enforcement. To this end, I employ, at times, a form of autoethnography, a form of qualitative research that has effectively been used by queer, marginalized, and racialized individuals as a way to counteract mainstream narratives within heteronormative and racial systems of oppression.<sup>52</sup> Kathryn Gillespie argues, in the context of witnessing and

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<sup>50</sup> Aph Ko, “Afrofuturism and Black Veganism.”

<sup>51</sup> Carol Hanish, “The Personal Is Political,” 2009, <http://www.carolhanisch.org/CHwritings/PIP.html>.

<sup>52</sup> Tony E. Adams, and Stacy Holman Jones, “Autoethnography is Queer.” *Handbook of Critical and Indigenous Methodologies*, edited by Norman K. Denzin, Yvonna S. Lincoln, and Linda Tuhiwai Smith, 373-390, Thousand Oaks: Sage, 2008, <https://tonyadamsdotcom.files.wordpress.com/2014/05/adamsholmanjones->

autoethnography, that it “reveal[s] and document[s] hierarchies of power and inequality that affect the embodied experiences of marginalized individuals and populations.”<sup>53</sup>

Autoethnography has been used to question the divide between what is admissible or inadmissible evidence in scholarship and research. Feminist, postcolonial, queer, and critical race studies theorist Sara Ahmed argues that

The evidence we have of racism and sexism is deemed insufficient because of racism and sexism. Indeed, racism and sexism work by disregarding evidence or by rendering evidence unreliable or suspicious—often by rendering those who have direct experience of racism and sexism unreliable and suspicious. This disregarding . . . has a central role in maintaining an order of things. Simply put: that evidence of something is deemed insufficient is a mechanism for reproducing something.<sup>54</sup>

Thus, autoethnography becomes one way of “[a]cknowledg[ing] and accommodating subjectivity, emotionality, and the researcher’s [my] influence on research, rather than hiding from these matters or assuming they don’t exist,”<sup>55</sup> as Carolyn Ellis, Tony E. Adams, and Arthur P. Bochner put it. Consequently, the use of personal narrative is also political, as it opens the way for what Susan E. Chase calls “feminist challenges to conventional assumptions about research relationships and research methods.”<sup>56</sup> In other words, the aim is to link personal experiences to social, cultural, and political concerns, and thus to draw attention to the limitations of rationalist accounts that, in their claims to objectivity, also tend

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[autoethnographyisqueer-2008.pdf](#), 372.

<sup>53</sup> Kathryn Gillespie, "Witnessing Animal Others: Bearing Witness, Grief, and the Political Function of Emotion," *Hypatia* 31, no. 3 (2016): 572-588, doi: 10.1111/hypa.12261, 573.

<sup>54</sup> Sara Ahmed, "Evidence," *feministkilljoys* (blog), July 12, 2016.

<https://feministkilljoys.com/2016/07/12/evidence/>.

<sup>55</sup> Carolyn Ellis, Tony E. Adams, and Arthur P. Bochner, "Autoethnography: An Overview," *Forum: Qualitative Social Research* 12, no. 1 (2011), [http://www.qualitative-research.net/index.php/fqs/article/view/1589/3095#footnote\\_1](http://www.qualitative-research.net/index.php/fqs/article/view/1589/3095#footnote_1).

<sup>56</sup> Susan E. Chase cited in Marilyn Metta, *Writing Against, Alongside and Beyond Memory: Lifewriting as Reflexive, Poststructuralist Feminist Research Practice*, (Bern: Peter Lang, 2010), 23.

to negate embodied experiences. Including embodiment and affect in scholarly discourse is central to the recognition of the joy, fear, anger, grief, love, etc. that those who live on earth experience: that which Cary Wolfe asserts are “shared by humans and nonhumans.”<sup>57</sup> Such recognition is instrumental to critiquing anthropocentrism. Including these embodied experiences works to “decente[r] the human” by bringing into proximity the grief animals experience with my bearing witness to suffering.<sup>58</sup>

In other words, autoethnography invites readers “to enter the author’s world and to use what they learn there to reflect on, understand, and cope with their own lives.”<sup>59</sup> Possibly more so, however, using autoethnography provides a way of counteracting the trend that CAS scholar Claudia Serrato identifies in academia, which is to “report research findings using a linear non-relational method. . . which is ‘inextricably linked to European imperialism and colonial[ity]’ (Smith 1999).”<sup>60</sup> Instead, she suggests that we be “accountable to all [our] relations,”<sup>61</sup> in keeping with the concept of the Lakota world view *Aho Mitákuye Oyás’iŋ*, or all are related, foregrounding concepts of non-hierarchical interconnectedness. In this work, I hope to emphasize the importance of holistic social justice approaches to animal advocacy and theorizing. This thesis, therefore, includes autoethnographic material to augment the claims of land-based direct enforcement campaigns. The aim is also to illustrate the limitations of current understandings of direct enforcement movements, which, I argue,

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<sup>57</sup> Cary Wolfe, *What is Posthumanism?*, 119.

<sup>58</sup> Kathryn Gillespie, "Witnessing Animal Others," 573.

<sup>59</sup> Carolyn Ellis, Tony E. Adams, and Arthur P. Bochner, "Autoethnography: An Overview."

<sup>60</sup> Claudia Serrato, "Ecological Indigenous Foodways and the Healing of all our Relations," *Journal of Critical Animal Studies* 8, no. 3 (2010): 52-61, <http://www.criticalanimalstudies.org/wp-content/uploads/2012/09/JCAS-Special-Issue-Women-of-Color-November-FINAL-2010.pdf>, 53.

<sup>61</sup> *Ibid.*, 53.

obscure the link between colonial relations and nonhuman animal relations. Direct enforcement campaigns, particularly the land-based direct enforcement campaigns addressed in this thesis, have received relatively little critical discussion to date. Further, using autoethnography to address the concept of the animal is part of a larger trajectory within animal activism that includes personal experiences in critical approaches to the exploitation of animals. Examples of this trajectory include works from Kathryn Gillespie,<sup>62</sup> Brenda Sanders,<sup>63</sup> Claudia Serrato,<sup>64</sup> Donald Barnes,<sup>65</sup> Maria Marta Andreatta,<sup>66</sup> Greta Gaard,<sup>67</sup>

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<sup>62</sup> Kathryn Gillespie, "Witnessing Animal Others," 1.

<sup>63</sup> Brenda Sanders, "Intersectionality in Community-Based Movements," *Interspecies & Intersectional Justice*, presented at Interspecies & Intersectional Justice Conference, Clinton, March 25-27, 2016, <https://www.youtube.com/watch?v=mXxyc9ufUM4>.

<sup>64</sup> Claudia Serrato, "Ecological Indigenous Foodways and the Healing of all our Relations," 53.

<sup>65</sup> Donald J. Barnes, "A Matter of Change," In *In Defense of Animals*, edited by Peter Singer, 157-167, New York: Basil Blackwell, 1985, <http://www.animal-rights-library.com/texts-m/barnes01.htm>.

<sup>66</sup> M. M. Andreatta, "Being a Vegan: A Performative Autoethnography," *Cultural Studies ↔ Critical Methodologies* 15, no. 6 (2015): 477-486, doi: 10.1177/1532708615614025, 477.

<sup>67</sup> Greta Gaard, "Ecofeminism Revisited: Rejecting Essentialism and Re-Placing Species in a Material Feminist Environmentalism." *Feminist Formations* 23, no. 2 (2011): 26-53. doi: 10.1353/ff.2011.0017, 26; Greta Gaard, *Ecological Politics: Ecofeminists and the Greens*. (Philadelphia: Temple University Press, 1998), 1.



Anita Krajnc,<sup>68</sup> Jacques Derrida,<sup>69</sup> Dylan Powell,<sup>70</sup> Amanda Lickers,<sup>71</sup> Victor Puertas,<sup>72</sup> and many more.

### 1.2.2 Methodology: Intersectional Analysis

My analysis of the use of the direct enforcement tactic stands in relation to larger social and cultural narratives. I adopt an intersectional critical animal studies and critical race feminist approach to address how these social and cultural narratives interact with the tactic of direct enforcement. Intersectionality developed out of critical race theorist Kimberlé Crenshaw's understanding that single-axis approaches for addressing racism and sexism as separate issues have resulted in the exclusion of Black women from "feminist theory and antiracist politics."<sup>73</sup> In other words, issues were either framed as women's issues or as people of colour's issues, but never, for example, women of colour's issues, resulting in the erasure of Black women from political discourse and the delegitimization of their experiences of both oppressions.<sup>74</sup> As a theoretical stance, intersectionality has been used to show the interconnectedness of oppressions, namely, racism, sexism, ableism, heterosexism, sizeism, ageism, cis-genderism, colonialism, and, significantly for CAS, what has been called

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<sup>68</sup> Anita Krajnc, "Love-Based Organizing with Toronto Pig Save," presented at Animal Advocacy Camp, Vancouver, May 21-22, 2016.

<sup>69</sup> Jacques Derrida, *The Animal That Therefore I Am*, trans. Marie-Louise Mallet (New York: Fordham University Press, 2008), 3.

<sup>70</sup> Dylan Powell and Amanda Lickers, *Anti-Colonialism & Animal Liberation*.

<sup>71</sup> Amanda Lickers and Victor Puertas, "Reclaim Turtle Island," *Burning Hearts Media*, presented at Resistance Ecology Conference, Portland, 2015, <https://vimeo.com/131057145>.

<sup>72</sup> Amanda Lickers and Victor Puertas, "Reclaim Turtle Island," *Burning Hearts Media*, presented at Resistance Ecology Conference, Portland, 2015, <https://vimeo.com/131057145>.

<sup>73</sup> Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1989, no. 1 (1989): 139-167, <http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf>, 152.

<sup>74</sup> *Ibid.*, 139.

“speciesism.”<sup>75</sup> Speciesism is a term coined by British psychologist Richard D. Ryder and popularized by philosopher Peter Singer.<sup>76</sup> It was first described as the exclusion of some animals from moral consideration and legal protection based on species membership.<sup>77</sup>

Moreover, in regards to intersectionality and nonhuman animals, vegan feminist activist Aph Ko has argued that the human/subhuman divide is at the root of oppression:

your own oppression is anchored to your citizenship as a “sub-human” or “animal” in contemporary society. This is what makes racism, sexism, and all other “isms” possible. These “isms” are expressions of being labelled “less-than-human.” Therefore, this isn’t just a race-based or gender-based issue, it’s simultaneously one of species as well.<sup>78</sup>

The root of oppression, it can be argued, is speciesism, as those considered “human” are at the apex of an anthropocentric hierarchy of being, whereas the animalized, racialized, colonialized, feminized, and marginalized others are designated as sub-humans. In this formulation, speciesism describes exclusion from moral consideration and/or legal protection based on whether an individual has “been labeled as ‘less-than-human.’”<sup>79</sup> Whereas

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<sup>75</sup> Marjorie Spiegel, *The Dreaded Comparison* (New York: Mirror Books, 1996), 33; Maneesha Deckha, "Animal Advocacy, Feminism and Intersectionality," *Deportate, Esuli, Profughe*, n. 23 (2013), [http://www.unive.it/media/allegato/dep/n23-2013/Documenti/03\\_Deckha.pdf](http://www.unive.it/media/allegato/dep/n23-2013/Documenti/03_Deckha.pdf), 61.

; Lauren Corman and Margaret Robinson, “All My Relations: Margaret Robinson on Merging Mi’kmaq and Vegan Values,” *Animal Voices*, April 23, 2013, <https://animalvoices.ca/2013/04/23/all-my-relations-margaret-robinson-on-merging-mikmaq-and-vegan-values/>;

Brenda Sanders, "Intersectionality in Community-Based Movements."; Aph Ko, “Afrofuturism and Black Veganism: Towards a New Citizenship,” *Aphro-ism* (blog), February 24, 2016, <https://aphro-ism.com>.

<sup>76</sup> Richard Ryder, “Speciesism,” in *Encyclopedia of Animal Rights and Animal Welfare*, ed. Marc Bekoff and Carron A. Meaney (Westport, Conn: Greenwood Press, 1998), 320.; Peter Singer, *Animal Liberation*, 2nd ed. (New York, N.Y: New York Review of Books, 1990).

<sup>77</sup> Richard Ryder, “Speciesism,” 320.

<sup>78</sup> Aph Ko, “Afrofuturism and Black Veganism: Towards a New Citizenship.”

<sup>79</sup> Aph Ko, “Afrofuturism and Black Veganism: Towards a New Citizenship.”

speciesism is the “*expressio[n]* of being labeled as ‘*less than human*,’”<sup>80</sup> anthropocentrism produces the less than human. Anthropocentrism (from the Greek *ánthropōs*, meaning human, and *kétron*, meaning centre) is the arbitrary, yet naturalized and tautological belief that those who are considered human are deserving of moral consideration over those considered sub-human or nonhuman. For example, as posthumanist and critical animal studies scholar Cary Wolfe argues, it is only Euro-American, white, Christian, cis-heterosexual, male, property owners<sup>81</sup> who are extended legal protection. As Rosi Braidotti asserts, “conservative, religious forces today often labour to re-inscribe the human within a paradigm of natural law.”<sup>82</sup>

In contrast to humans who have been awarded legal protection under these largely Euro-American structures, animalized, feminized, and racialized bodies are not granted equal moral consideration.<sup>83</sup> Illustrating these connections, ecofeminist Val Plumwood coined the term “anthrocentrism” to indicate the link between *androcentrism* (the centering of men) and *ethnocentrism* (the centering of one's culture) inherent to anthropocentrism.<sup>84</sup> Further illuminating the underpinnings of anthropocentrism, Belcourt asserts anthropocentrism is the “racialized and speciesist site of settler coloniality.”<sup>85</sup> I adopt this CAS and intersectional approach to argue that critiques of any oppression, be it colonial, racial, species-based, or

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<sup>80</sup> Aph Ko, “Afrofuturism and Black Veganism: Towards a New Citizenship.”

<sup>81</sup> Aph Ko, “Why Animal Liberation Requires an epistemological revolution,” *Aphro-ism* (blog), February 24, 2016, <https://aphro-ism.com/2016/02/24/why-animal-liberation-requires-an-epistemological-revolution/>.

<sup>82</sup> Rosi Braidotti, *The Posthuman*, 1st ed, Cambridge, UK: Polity Press, 2013, <https://play.google.com/books/reader?printsec=frontcover&output=reader&id=WZASAAAAQBAJ&pg=GBS.PT115.w.2.0.17>.

<sup>83</sup> Cary Wolfe, *What is Posthumanism?*, 102.

<sup>84</sup> Val Plumwood, “Androcentrism and Anthrocentrism: Parallels and Politics,” *Ethics and the Environment* 1, no. 2 (1996): 119-152, 120.

<sup>85</sup> Billy-Ray Belcourt, “Animal Bodies, Colonial Subjects, 1.

otherwise, need to be based in anti-anthropocentrism as much as anti-colonialism and anti-racism, because of the fused nature of the oppression of marginalized, animalized, racialized, and colonized beings. I argue that grounding animal law advocacy in anti-anthropocentrism, anti-colonialism, and anti-racism can help organizations save more animals' lives and challenge exploitative legal structures.

### **1.3 Intersectionality, Animal Liberation, and Direct Enforcement**

Reevaluating how intersectionality operates on a conceptual level requires shifting the practical approaches of organizations advocating for nonhuman animals. While organizations may present an understanding of how racism and speciesism are fused, Breeze Harper argues how this understanding is codified in a universalizing language of “post-racialism.”<sup>86</sup> Harper argues that post-racialism denotes that which “dysconsciously conceal[s] the violence of neoliberalism and racism,”<sup>87</sup> or, in other words, that which “maintain[s] structured ignorance about the significance of race and whiteness as organizing principles.”<sup>88</sup> Post-racialism works in a number of ways, including, for example, colour-blindness,<sup>89</sup> the marketing of universalism,<sup>90</sup> and the epistemology of racism and colonialism as overt acts of violence rather than structural, covert, or rhetorical.<sup>91</sup> Considering how post-racialism operates is important to CAS because, without understanding how these oppressions fortify human exceptionalism, we can never reach the aim of critical animal studies, which is a “just,

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<sup>86</sup> A. Breeze Harper, “Vegan Consciousness and the Commodity Chain: On the Neoliberal, Afrocentric, and Decolonial Politics of ‘Cruelty-Free,’” (doctoral dissertation, University of California Davis, 2013), <http://www.sistahvegan.com/wp-content/uploads/2013/03/harperpdfelfordupdates.pdf>, 21.

<sup>87</sup> Ibid., 21.

<sup>88</sup> Ibid., 21.

<sup>89</sup> Aph Ko, “Afrofuturism and Black Veganism.”

<sup>90</sup> A. Breeze Harper, “Vegan Consciousness and the Commodity Chain,” 29.

<sup>91</sup> Ibid., 44

equitable, inclusive, and peaceful world.”<sup>92</sup> For example, Harper demonstrates how post-racialism intertwines with speciesism by juxtaposing mainstream animal advocacy organization People for the Ethical Treatment of Animals (PETA)’s commentary on Trayvon Martin’s 2012 murder with PETA’s vegan food guides.<sup>93</sup> In doing so, Harper identified not only the post-racism that underlies PETA’s claims but also identifies the post-racial trends within mainstream animal advocacy movements.

Applying these criticisms to animal law advocacy specifically, Maneesha Deckha asserts that mainstream multicultural animal liberation culture often “label[s] minority cultures as ‘backward/barbaric’ in their sensibilities toward animals much the same way as they classify minority cultures as lagging behind Western ones.”<sup>94</sup> Further, Clare Jean Kim, who combines critical race studies with critical animal studies, argues that mainstream animal advocacy organizations tend to trivialize concerns about racial or tribal justice in their advocacy campaigns.<sup>95</sup>

To combat these tendencies, CAS scholars Lauren Corman and Tereza Vandrovcová argue that transnational activism should (1) “powerfully demonstrate the need to pay close attention to grassroots voices regarding what issues are most urgent and what will produce

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<sup>92</sup> Institute of Critical Animal Studies, "About."

<sup>93</sup> This juxtaposition showed how PETA’s commentary of the murder showed that what PETA defined as anti-racism was only concerned with overt acts of violence, such as antebellum slavery or murder, but not discursive violence, which they are complicit in creating through their food guides, which she argues “conceals human exploitation that makes [the foods they market in their vegan food guides] possible.” A. Breeze Harper, “Vegan Consciousness and the Commodity Chain,” iv, v.

<sup>94</sup> Maneesha Deckha, "Toward a Postcolonial, Posthumanist Feminist Theory: Centralizing Race and Culture in Feminist Work on Nonhuman Animals," *Hypatia* 27, no. 3 (2012): 527-545, doi: 10.1111/j.1527-2001.2012.01290.x, 538.

<sup>95</sup> Claire Jean Kim, *Dangerous Crossings* (New York: Cambridge University Press, 2015), [https://books.google.ca/books?id=eOJwBwAAQBAJ&pg=PR1&dq=dangerous+crossings&hl=en&sa=X&redir\\_esc=y#v=onepage&q=dangerous%20crossings&f=false](https://books.google.ca/books?id=eOJwBwAAQBAJ&pg=PR1&dq=dangerous+crossings&hl=en&sa=X&redir_esc=y#v=onepage&q=dangerous%20crossings&f=false), 245.

positive gains”; (2) promote the “[a]wareness that effective activism is informed by an understanding of specific (social and other) contexts”; and (3) “draw attention to how Western forms of animal activism have been vehicles for racism and cultural imperialism.”<sup>96</sup> In the spirit of such an inquiry, this thesis uses intersectionality to reflect on how some direct enforcement campaigns, in theory and in practice, participate in the alienating, universalizing, and post-racial discourses and practices similar to those identified by Deckha, Corman, Vandrovcová, and Harper. This critique is essential to conceptualizing ways direct enforcement can challenge racism, colonialism, developmentalism, and neoliberalism.

#### **1.4 Limitations**

Suggesting that non-state organizations can enforce Western laws to challenge anthropocentrism and colonialism inherently reinforces anthropocentrism and colonialism. Belcourt warns that such approaches “disrupt decolonial futurities”; in other words, focusing on current legal frameworks serves to set aside addressing the root of oppression by remaining complicit in neoliberalism and colonialism.<sup>97</sup> However, my aim is to contribute to understandings of direct enforcement activism that go beyond a reliance on Euro-American law and enforcement mechanisms. It is my hope that conceptualizing direct enforcement in this way may encourage mainstream animal law advocates and theorists to recognize and

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<sup>96</sup> Lauren Corman and Tereza Vancrocová, "Radical Humility," 153.

<sup>97</sup> Billy-Ray Belcourt, "Animal Bodies, Colonial Subjects," 10.

support practices that challenge the colonial violence generated and tolerated by current laws and enforcement practices of states and nonprofits.

## **1.5 Outline**

Chapter Two engages critically with the enforcement of animal legislation by non-state organizations. I first historicize the concept of direct enforcement and summarize Eilstrup-Sangiovanni and Phelps Bondaroff's definitions of the term. I then argue that the current formulation of direct enforcement uncritically maintains Euro-American neoliberal power structures through adhering to authoritative appeals that reinforce Euro-American statism and supremacy. Because Phelps Bondaroff argues that direct enforcement activism needs to be a proportionate response to violations of international law,<sup>98</sup> I first analyze how the concept of proportionality, as it is currently applied to direct enforcement, is steeped in Western, neoliberal values of moderation. Second, I argue that Eilstrup-Sangiovanni and Phelps Bondaroff's negotiation of direct enforcement activism reproduces a binary between emotional and legal activism. This narrative remains uncritical of the moral implications of both the laws and the enforcement mechanisms, which belong to a rationalizing Western discourse that holds rational claims to be more legitimate than moral claims, and the two to be mutually exclusive and been used as a mechanism for subjugating marginalized communities. Third, I argue that Eilstrup-Sangiovanni and Phelps Bondaroff fail to consider the colonial and racial dimensions of that which has been considered legal and illegal in Euro-American legal discourse. Eilstrup-Sangiovanni and Phelps Bondaroff hypothesize that direct enforcement (as it has been mobilized by Sea Shepherd) is more proportionate, legitimate, rational, and effective than other tactics when working with traditional whaling

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<sup>98</sup> Teale Phelps Bondaroff, "Direct Enforcement on the High Seas," 174.

cultures; however, I argue that the ways Sea Shepherd's mobilizations of direct enforcement, which are largely in keeping with this definition of direct enforcement, foreclose conversations with individuals from traditional whaling cultures, and alienate local activists.

Chapters Three and Four historicize the animal protection and conservation laws that framed Sea Shepherd's campaigns Operation Jairo and Operation GrindStop. These chapters then analyze how the two campaigns fall under the category of direct enforcement by virtue of their aim to enforce international and/or national conservation legislation, albeit in different capacities. I use vignettes of my participation in Operation GrindStop and Operation Jairo as an autoethnographic backdrop for my analyses of Sea Shepherd's mobilizations of direct enforcement on these two land-based campaigns. I argue that Sea Shepherd's use of direct enforcement is restrained to Westernized definitions of proportionality,<sup>99</sup> legality,<sup>100</sup> and legal vs. moral claims<sup>101</sup> uncritically perpetuate colonialism and anthropocentrism. In Chapter Three, I contend that SSCS's insistence on the illegality of the *grindadráp*, invalidation of claims of neocolonialism,<sup>102</sup> disregard of local activist initiatives, dismissal of food justice issues,<sup>103</sup> and alienation of many Faroese<sup>104</sup> rendered negatively impacted political opportunity structures for future advocacy efforts, similar to Phelps Bondaroff and

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<sup>99</sup> Ibid., 183.

<sup>100</sup> Ibid., 182.

<sup>101</sup> Ibid., 61.

<sup>102</sup> Paul Watson, "The Nordic Sheep Look Up," *Captain Paul Watson* (Facebook page), August 7, 2014, <https://www.facebook.com/captpaulwatson/posts/10152553316605932:0>.

<sup>103</sup> Pamela Anderson, Rosie Kunneke, and Lamyia Essemli, "Operation GrindStop 2014: Press Conference with Pamela Anderson," YouTube video, 1:06:50, Press Conference on August 12, 2014, posted by "Sea Shepherd Conservation Society," August 12, 2014. <https://www.youtube.com/watch?v=LwUQgJuqHzU>.

<sup>104</sup> Ross McCall and Oden Roberts, "The Grind of the Faroe Islands," YouTube video, 22:03, Documentary on the grindadráp posted by Sea Shepherd Conservation Society, June 23, 2016, <https://www.youtube.com/watch?v=xq8CgZXrduM>.



Catherine Burke's assessments of SSCS's impact on anti-sealing advocacy in Canada.<sup>105</sup> I then discuss effective approaches to grassroots activism in the Faroe Islands that could serve as an example for organizations advocating on behalf of pilot whales in the Faroe Islands. In Chapter Four, I consider how SSCS' mobilization of direct enforcement alienated and tokenized local activists to bolster the organization's legitimacy in the eyes of the Costa Rican state and its Western donor base. Contrary to claims on SSCS's website that the organization was working with and alongside locals, I illuminate the ways in which each of these direct enforcement-based campaigns alienated local grassroots initiatives and communities. Not only did these campaigns result in severed ties to grassroots movements but they also ran in direct opposition to anti-oppression and intersectional CAS politics.

Chapter Five uses insights from CAS, critical race theory, and Indigenous activism including popular zines from Ancestral Pride and Indigenous Action Media to emphasize the tools already available to those hoping to participate in anti-racist and anti-colonial direct enforcement initiatives. I focus on the Musgamagw Dzawada'enuxw Cleansing Our Waters, Alexandra Morton, and Sea Shepherd's Operation Virus Hunter Campaign as an example of mobilizations of direct enforcement that can be seen as a move towards anti-colonial direct enforcement advocacy. By centering Indigenous land defense campaigns in my analysis of direct enforcement, I intend to address how organizations can mobilize the tactic of direct enforcement in ways that do not reproduce colonialism and racism in their challenges to speciesism.

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<sup>105</sup> Teale N. Phelps Bondaroff and Danita Catherine Burke, "Bridging Troubled Waters: History as Political Opportunity Structure," *Journal of Civil Society* 10, no. 2 (2014): 165-183, doi: 10.1080/17448689.2014.919179.

## Chapter 2: Direct Enforcement

### 2.1 The Context of Animal Law Theory and Advocacy

In contemporary animal law theory and advocacy, there is tension between the use of laws and enforcement mechanisms as they exist (particularly, doing so while attempting not to reinscribe the oppression established by these systems) and the full-scale revision of legal protections for animals. This section aims to address the axiomatic issue at stake between different understandings of animal law, which will inform my discussion of direct enforcement, Operation Jairo, and Operation GrindStop.

In an interview with Elisabeth Roudinesco, Jacques Derrida comments that although animal activists and scholars must use the current system to establish protections for animals, we will eventually have to re-think the ways animals are legally protected:

For the moment, we ought to limit ourselves to working out the rules of law such as they exist. But it will eventually be necessary to reconsider the history of this law and to understand that although animals cannot be placed under concepts like citizen, consciousness linked with speech, subject, etc., they are not for all that without a ‘right.’ It’s the very concept of right that will have to be ‘rethought.’<sup>106</sup>

Current criticisms limited to “working out the rules of law”<sup>107</sup> as they exist are provided by Peter Singer and Tom Regan; Singer argues for the protection of animals on a utilitarian basis while Tom Regan argues for the protection of animals using a rights-based framework.<sup>108</sup> While Singer's utilitarian philosophy is not based on inherent rights, the organization he co-founded, the Great Ape Project, argues for the extension of legal rights

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<sup>106</sup> Jacques Derrida and Elisabeth Roudinesco, *For What Tomorrow: A Dialogue* (Stanford, CA: Stanford University Press, 2004), 73-74.

<sup>107</sup> Jacques Derrida and Elisabeth Roudinesco, *For What Tomorrow*. 73.

<sup>108</sup> Tom Regan, *The Case for Animal Rights* (Los Angeles: University of California Press, 1983).

and protections to nonhuman animals. Great apes, he states have “basic rights that we should recognize.”<sup>109</sup> In reference to both Singer and Regan's work, Cary Wolfe points out,

what Singer and Regan have in mind—which is very powerful, attractive, and pragmatic—is this: if we have certain attributes and characteristics that for us count as subjectivity, and if on that basis we protect them in legal terms by the accordance of rights,<sup>110</sup> then we ought to recognize and protect those attributes and qualities whenever we see them. In this case, regardless of species. To which I say: Absolutely. That is internal to law already—and, let's face it, that is where a lot of the action is. The philosophical ethics that Derrida illuminates is, in one sense, very important. But, what is also very important is to consider that, while working within the historically and socially contingent models that we have now, these rights have not been rigorously extended in the way that they should be extended, especially given the markers for subjectivity—and everything that goes with them—are found beyond the designation of *Homo Sapiens*. Yet, that first project is a long way from being accomplished, a long way. And, this is where efforts like The Great Ape Project are, I think, extremely important. And, I'm happy to sign on. My only point is that I sign on in abeyance as a theorist. In other words, as one who believes that this model of rights is a model of rights which, in a theoretical domain, has for some time been shown to be wanting. It is a relic of enlightenment humanism that does not withstand theoretical scrutiny. So, while we're looking for some other way to think about this, back here in the real world as it were, we have to use what's on the books.<sup>111</sup>

Wolfe establishes the tension between theoretical and practical approaches to animal law advocacy and theorizing, but cites a practicality in using the current, rights-based, framework. However, the attractive and potentially pragmatic applications of such legal advocacy are not without criticism. Josephine Donovan argues that, although “[n]atural rights

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<sup>109</sup> Peter Singer, “Campanha Mundial Grandes Primatas,” Youtube Video, 1:45, Video of Peter Singer posted by Projectogap, November 16, 2016, [https://www.youtube.com/watch?v=Yo7v\\_IjWO8o](https://www.youtube.com/watch?v=Yo7v_IjWO8o).

<sup>110</sup> As Donaldson and Kymlicka argue, although “Singer is widely seen as one of the founders of the 'animal rights' field” he is a utilitarian and does not believe in inviolable rights for humans or animals.” However, Singer did co-found the Great Ape project (GAP) which states that “great apes have the right not to be imprisoned or experimented on, no matter what the potential human benefits” and uses this right-based approach to advocate for the protection of animals. Sue Donaldson and Will Kymlicka. *Zoopolis: A Political Theory of Animal Rights* (New York: Oxford University Press, 2011), 270-271, 273.

<sup>111</sup> Alison Calder, Dana Medoro, and Cary Wolfe, “Ethics, Activism, and the Rise of Interdisciplinary Animal Studies: An Interview with Cary Wolfe,” *Topia* no. 10 (2003): 39-52, 45-46.

and utilitarianism present impressive and philosophical arguments for the ethical treatment of animals,”<sup>112</sup> contemporary approaches have ignored and trivialized the work of women in animal advocacy and, more tellingly have “associate[ed] the animal rights cause with ‘womanish’ sentiment.”<sup>113</sup> Donovan maintains that mainstream animal law advocacy is characteristic of the “atomistic individualism and rationalism of the liberal tradition.”<sup>114</sup> While Singer’s argument recognizes, as Donovan contends, “sensibility or feeling as the basis for treatment as a moral entity, the utilitarian position remains locked in a rationalist, calculative mode of moral reasoning that distances the moral entities from the decision-making subject, reifying them in terms of quantified suffering.”<sup>115</sup> Further, Donovan asserts that “the natural rights theory proposed by Regan inherently privileges rationality”<sup>116</sup> because rationalizing discourse obfuscates both the anthropocentric and heterosexist underpinnings of moral and legal consideration. Creating a more inclusive animal law movement, she contends, would mean constructing a “relational culture of caring attention and love” in legal theorizations and advocacy of animals.<sup>117</sup>

In one such attempt, Sue Donaldson and Will Kymlicka establish a relational theory of animal rights. They contend that the ways animal issues are currently debated are incapable of creating fundamental change.<sup>118</sup> Instead, they insist that advocates must create “a new moral framework, that connects the treatment of animals more directly to

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<sup>112</sup> Josephine Donovan, "Animal Rights and Feminist Theory," *Signs* 15, no. 2 (1990): 350-375, <http://www.jstor.org.ezproxy.library.ubc.ca/stable/3174490>, 375.

<sup>113</sup> *Ibid.*, 351.

<sup>114</sup> *Ibid.*, 358.

<sup>115</sup> *Ibid.*, 358.

<sup>116</sup> *Ibid.*, 358.

<sup>117</sup> *Ibid.*, 375. For more information on this subject, see Chapter 6.

<sup>118</sup> Sue Donaldson and Will Kymlicka, *Zoopolis*, 21.

fundamental principles of liberal-democratic justice and human rights.”<sup>119</sup> They conceptualize this framework as being based on inviolable positive relational rights. Where inviolable rights are those which “should not be done to animals even in pursuit of human interest or ecosystem vitality.”<sup>120</sup> Positive rights are “*positive* obligations we may owe to animals—such as an obligation to respect animals' habitat, or obligations to design our buildings, roads, and neighborhoods in a way that takes into account animals' needs, or obligations to rescue animals who are unintentionally harmed by human activities.”<sup>121</sup>

Relational obligations are

duties arising not just from the intrinsic characteristics of animals (such as their consciousness), but from the more geographically and historically specific relationships that have developed between particular groups of humans and particular groups of animals. For example, the fact that humans have deliberately bred domesticated animals to become dependent on us generates different moral obligations to cows or dogs than we have to the ducks or squirrels who migrate to areas of human settlement. And both of these cases differed yet again from our obligations to animals in isolated wilderness who have little or no contact with humans. These facts of history are geographically seen to matter morally in ways that are not captured by classical [animal rights theory].<sup>122</sup>

Donaldson and Kymlicka, therefore, attempt to include feminist critiques of moral and legal considerability while remaining within the realm of the “fundamental principles of liberal-democratic justice and human rights.”<sup>123</sup>

But is this approach, with its appeals to principles such as rights that have for so long rendered those subhuman (feminized, racialized, and marginalized beings), sufficient? As Derrida and Wolfe both argued, there needs to be a full-scale revision of the Western

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<sup>119</sup> Ibid., 13-14.

<sup>120</sup> Ibid., 14.

<sup>121</sup> Ibid., 15-16.

<sup>122</sup> Ibid., 15-16.

<sup>123</sup> Ibid., 13.

conceptualization of rights. In a critique of Donaldson and Kymlicka, Billy Ray-Belcourt argues that the theory of inviolable positive relational rights “re-cast[s] animality within the language of ‘political and cultural membership’ . . . by recategorizing domesticated animals as citizens, feral animals as denizens, and wild animals as members of sovereign nations.”<sup>124</sup> Belcourt maintains that Donaldson and Kymlicka's positive relational rights are “neoliberal re-figurings of animals as settler citizens. . . [and] militariz[e] settler-colonial infrastructures of subjecthood and governmentality.”<sup>125</sup> Further, Belcourt argues that these narratives “obfuscate the radicality of Indigenous relations.”<sup>126</sup> Belcourt contends,

recalling the representation of animals in Indigenous cosmologies/oral traditions and unsettling speciesism as a ‘colonial mentality’ must be prioritized in decolonial thought. Here, it is important to note that the animal and the Indigenous subject are not commensurable colonial subjects insofar as their experiences of colonization are different—a decolonial animal ethic must therefore account for these differences. . . I propose a re-locating of animal ontologies within decolonial thought that engages critically with the ways in which settler colonialism objectivizes animal bodies as one of many intersecting settler colonial *particularities*. That is. . . settler colonialism is invested in animality and therefore re-makes animal bodies into colonial subjects to normalize settler modes of political life (*i.e.*, territorial, acquisition, anthropocentrism, capitalism, white supremacy, and neoliberal pluralism) that further displace and disappear Indigenous bodies and epistemologies.<sup>127</sup>

Such a proposal explores moving beyond mainstream animal activism, and provides insight into ways that animal law advocacy can participate in anti-anthropocentrism and anti-colonialism.

In line with Belcourt’s critique of colonialism and anthropocentrism internal to contemporary animal law theorizing and advocacy,<sup>128</sup> legal scholar Maneesha Deckha

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<sup>124</sup> Billy-Ray Belcourt, “Animal Bodies, Colonial Subjects,” 5-6.

<sup>125</sup> *Ibid.*, 1.

<sup>126</sup> *Ibid.*, 9.

<sup>127</sup> *Ibid.*, 9.

<sup>128</sup> *Ibid.*, 1

provides insight into how applications of animal law advocacy can acknowledge and account for some of the colonial and anthropocentric tendencies of the movement. She argues, “non-normative bodies [such as bodies that have been feminized, racialized, animalized, disabled, and colonized] still only truly feature in law as central to the master subject.”<sup>129</sup> Deckha argues “the discourse used in . . . legal submissions [based on appeals to rights and personhood to establish legal protections for animals] endorses human exceptionalism.”<sup>130</sup> Deckha’s claims are corroborated by political scientist Laura Janara, who asserts, “Euro-American political theory is chronically ordered by anthropocentric assumptions and assertions.”<sup>131</sup> Deckha proposes a counter to this ordering, arguing “humanized animals can be legal stars, the legal plaintiffs”<sup>132</sup> to make way for a discourse that shifts away from emphasizing similarities to humans and excluding non-normative bodies.

To illustrate this claim, Deckha contrasts the Nonhuman Rights Project’s litigation in a case for extending personhood to chimpanzees to PETA’s litigation in their case against SeaWorld. Deckha clarifies that the Nonhuman Rights Project’s case relied on arguments such as “[c]himpanzees are autonomous, self-determined, self-aware, intelligent, and emotionally complex” and “[c]ognitively, [chimpanzees] resemble human beings.”<sup>133</sup> These arguments, she claims, reinforce anthropocentrism by linking animals’ legal protection with appeals to rationality, intelligence, self-determination, and self-awareness.<sup>134</sup> Deckha further

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<sup>129</sup> Maneesha Deckha, "Animals, Law, and Legal Advocacy," Presentation at Animal Advocacy Camp, Vancouver, BC, May 21-22, 2016.

<sup>130</sup> Ibid.

<sup>131</sup> Laura Janara, "Human-Animal Governance and University Practice in Canada: A Problematizing Redescription," *Canadian Journal of Political Science* 48, no. 3 (2015): 647-673, doi: 10.1017/S0008423915000384, 3.

<sup>132</sup> Maneesha Deckha, "Animals, Law, and Legal Advocacy."

<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

asserts that Nonhuman Rights Project's case invoked and depended on two types of personhood: legal personhood and the rationalist theory of personhood. While legal personhood is personhood that has been granted by a legal entity (for example, corporate personhood as granted by a state structure), the rationalist theory of personhood is based on the idea that anyone who can rationalize must qualify as a person. In keeping with Belcourt's conceptualization of personhood as both colonial and anthropocentric, Deckha contrasts the rationalistic and legal personhood of Nonhuman Rights Project's chimpanzee case with PETA's case against Sea World. Deckha portrays the latter as more effective because it focuses on the orca's "vulnerability, not autonomy"—embodiment, not the capacity to reason. PETA's case asked for "recognition against indenture and servitude" and cited the following factors: physical confinement, deprivation from families, separation from mothers and calves, abduction from the wild, stressful acoustics, and bad conditions. In line with both Donovan and Belcourt's critiques of current animal law theorizing and advocacy, Deckha's argument demonstrates how litigation, like that used by the Nonhuman Rights Project, "subordinates the importance of the body, and emotions... [resulting in] the marginalization of humans and more than humans who are seen to be non-normative. . . [and] impedes the full recognition of others."<sup>135</sup> Deckha emphasizes that, although appeals for the protection for nonhuman animals in anthropocentric terms can win some legal battles, such appeals are antithetical to establishing a legal protection framework for all animals. These cases result in the arbitrary attribution of protections to those who have perceived affinities with humans and leave out nonhumans who are not perceived to share those affinities (for example, cow,

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<sup>135</sup> Ibid.



pigs, goats, fish, and so on).<sup>136</sup> This contrasts with PETA's SeaWorld case, which contributes to the creation of case law that legal scholars, activists, and lawyers can use in the future to argue against the indenture and servitude of animals. A further example of the trend towards shifting the basis of our consideration of nonhuman animals is Dinesh Wadiwel's argument that animal "resistance," such as the resistance of fish or the Orca Tilikum, frame animals as political agents whose acts of resistance are examples of intentional acts against human domination.<sup>137</sup> Resistance, conceived in this way, can be another avenue by which to fight for the ethical and legal consideration of nonhuman animals.

From this example, Deckha contends "it is possible for litigation where nonhuman animals are at the centre of animal litigation to settle this difference. . . as long as the discourse of the advocacy itself, the images that are represented, avoids or minimizes the use of humanizing discourse."<sup>138</sup> To reach the goal of establishing more effective legal advocacy, Deckha argues that animal law activists and scholars should "incorporate more of the insights from critical animal studies";<sup>139</sup> Advocates should use anti-anthropocentric and anti-colonial insights from CAS to reformulate and challenge legal advocacy for animals. While moral extensionist arguments have not been ineffective to animal law advocacy in general, they can nonetheless be categorized as anthropocizing litigation that reproduces an exclusionary threshold.<sup>140</sup> The exclusionary threshold excludes feminized and animalized animals, whom Cary Wolfe contends are "linked to the ongoing practices of violence against non-human

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<sup>136</sup> Ibid.

<sup>137</sup> Dinesh Wadiwel, "Do Fish Resist?," Presentation at Human Animal Research Network, Sydney, Australia, June 30, 2016, <https://www.youtube.com/watch?v=JKDxw0t2TP4>

<sup>138</sup> Maneesha Deckha, "Animals, Law, and Legal Advocacy."

<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

others ‘so vital to our modernity.’”<sup>141</sup> In other words, the colonial Euro-American world was built on the use of these animals. These moral expansionist arguments reinforce human exceptionalism and foreclose possibilities for the legal protection of animalized, feminized, and colonized others.

The insights that Deckha, Derrida, Belcourt, Wolfe, and Donovan offer in their criticisms of current legal framings of animals can be extended to enforcement mechanisms used by animal law advocates. In the next section, I will provide a brief history of the Euro-American context of animal law enforcement by non-state actors. In keeping with Deckha’s assertion that we should apply learnings from CAS to our valuations of animal law theorization and advocacy, I use CAS to consider the ways that animal law enforcement, as CAS and critical disability studies scholar Kelly Oliver argues, remains “part of a tradition whose conceptual system trades on excluding, exploiting, and disavowing animals”<sup>142</sup> and as CAS scholar Jodey Castricano adds, “anyone seen to be ‘like animals.’”<sup>143</sup> I then tie this analysis to my critique of Eilstrup-Sangiovanni and Phelps Bondaroff’s definition of direct enforcement. If the true aim of animal law advocacy and theorizing, and direct enforcement, specifically, is effectively protecting animals, then theorists and activists need to be critical of the ways they are reproducing colonialism, anthropocentrism, and androcentrism—hamstringing justice initiatives for those considered subhuman.

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<sup>141</sup> Cary Wolfe, *What is Posthumanism?*, 101.

<sup>142</sup> Kelly Oliver, *Animal Lessons: How they Teach Us to be Human* (New York: Columbia University Press, 2009), [https://books.google.ca/books/about/Animal\\_Lessons.html?id=-f1-EvnBL8C&redir\\_esc=y](https://books.google.ca/books/about/Animal_Lessons.html?id=-f1-EvnBL8C&redir_esc=y), 36.

<sup>143</sup> Jodey Castricano, *Animal Subjects*, 252.

## 2.2 Education and Law Enforcement by Non-State Organizations

This section traces how enforcement mechanisms in animal law advocacy and theorizing have historically fortified anthropocentrism, colonialism, and classism. The enforcement of animal law, at least within the Euro-American context, developed as “private enforcement,”<sup>144</sup> arguably a precursor to or early form of direct enforcement. Legal scholar Jerry Anderson argues that it was enforcement, not education and lobbying, that comprised the central strategy of animal protection societies such as the Society for the Prevention of Cruelty to Animals (later named the Royal Society for the Prevention of Cruelty to Animals (RSPCA)):

Although the Society engaged in educational campaigns and pursued Parliamentary objectives, vigorous prosecution of the law was an essential part of the organization’s strategy from the beginning. As Pearson notes, with regard to American anti-cruelty societies, the ability to prosecute made the educational efforts more effective, coupled as they were with the warning of prosecution in the future. The prosecutions not only stopped the particular abuser accused of the crime, they also provided a more general deterrent and helped to inculcate the public, the police force, and the judiciary with the new norm of behavior towards animals. In addition, the prosecutions helped define the contours of permissible treatment of animals, and in some cases expanded the accepted definition of animal cruelty. The RSPCA’s extensive campaign of prosecution provides modern reformers an opportunity to explore the implications of relying largely on private parties to enforce animal abuse crimes.<sup>145</sup>

Private or direct enforcement, as conceived here, was a form of norm entrepreneurship around the enforcement of animal law and the definition of what was considered cruelty. Historically, private enforcement, or direct enforcement, has been a legal and educational

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<sup>144</sup> Jerry L. Anderson, "The Origins and Efficacy of Private Enforcement of Animal Cruelty Law in Britain," *Drake Journal of Agricultural Law* 17, no. 2 (2012): 263-310, 342, <http://poseidon01.ssrn.com/delivery.php?ID=114069009009103112024017099087010106004049020088012091073071102111009120067010111024018110017063062049097118006109025124125005008043088026052070104125092090000113105027052007110067122006004114000092091002068096083094101091107093029109127122028090031066&EXT=pdf>.

<sup>145</sup> *Ibid.*, 268-269.

battle, working against government regimes and police forces that historically did not consider animals as morally considerable.

### **2.3 Direct Enforcement's Role in Challenging Law Enforcement Norms**

Early formulations of direct enforcement challenged state enforcement of animal legislation. Primarily, these early formulations of direct enforcement functioned to disrupt state enforcement practices that privileged the needs of humans over nonhumans.

Enforcement organizations, such as the RSPCA, were faced with systemic and systemic injustice to animals, the British criminal justice system's unwillingness to enforce such laws. Historian of animal-human culture, Hilda Kean explains that "the Society [RSPCA] did not come into being to campaign for new legislation as such, but rather to ensure that the law which had been passed would be implemented."<sup>146</sup> Well-founded anxieties that such legislation would be ignored, Anderson argues, arose from the poor enforcement structures of the time, which, in England, consisted of poorly managed constables who "were typically irresponsible and could not be counted upon to effectively enforce the law."<sup>147</sup> Anderson posits,

[r]eliance on private prosecution of crimes was not unusual in early nineteenth-century Britain . . . As early as the seventeenth century, interest groups formed to pool the resources necessary to prosecute criminal law activity, in order to fill the vacuum created by a small or non-existent constabulary. In most cases, these prosecuting societies aimed to protect the self-interest of their members—such as the groups of shop-owners organized by Henry and John Fielding to prosecute thievery. Many of the societies were local, formed by groups of town citizens to provide adequate prosecution of crimes thought necessary to ensure public safety. In other cases, the groups formed to prosecute the type of moral offenses that public prosecutors were *unable or unwilling* to take on.<sup>148</sup>

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<sup>146</sup> Hilda Kean, *Animal Rights: Political and Social Change in Britain since 1800* (London: Reaktion Books Limited, 2000).

<sup>147</sup> Jerry L. Anderson, "The Origins and Efficacy," 276.

<sup>148</sup> *Ibid.*, 266-267.

Unwillingness to enforce animal legislation, Anderson contends, continued through the creation of the public police force in 1829. Anderson argues, “the unpopularity of anti-cruelty law made officials reluctant to enforce it,” forming the rationale for the continual need of private enforcement groups such as the RSPCA.<sup>149</sup> Anderson notes other reasons for forming these societies: the distrust of police enforcement and/or perceptions that police were corrupted or co-opted into organized crime.<sup>150</sup>

Legal scholar of wildlife and environmental crime Angus Nurse argues that such animal law enforcement groups continue to be relevant today. Nurse claims that state and public reliance on these groups continues in contemporary society, where nonprofits participate in “practical law enforcement activity as a means of ensuring effective use of legislation, taking on private prosecutions where statutory agencies fail to do so.”<sup>151</sup> Nurse posits that,

criminal justice systems fail to afford priority to effective wildlife law enforcement. . . Wildlife law thus often becomes a fringe area of policing enforced by specialist agencies with limited powers or one that is added on to the duties of already overburdened and non-specialist officers. . . Such statutory enforcement failures leave a vacuum that has been increasingly filled by Non-Governmental Agencies (NGOs) adopting policy development and practical enforcement roles in addition to the taking of direct action to prevent wildlife crimes. The involvement of third parties such as NGOs who play a significant role in investigating and exposing environmental harm and offending has, thus, become a necessity for effective environmental law enforcement.<sup>152</sup>

Direct enforcement has consequently had a long history in challenging anthropocentric attitudes towards animals on behalf of criminal justice systems, attitudes that are clear in

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<sup>149</sup> Ibid., 277.

<sup>150</sup> Ibid., 276.

<sup>151</sup> Angus Nurse, "Privatising the Green Police: The Role of NGOs in Wildlife Law Enforcement," *Crime, Law and Social Change* 59, no. 3 (2013): 305-318, doi: 10.1007/s10611-013-9417-2, 308.

<sup>152</sup> Ibid., 305.

their failure to allocate sufficient, if any, resources to the enforcement of animal protection laws. Private enforcement can be said to have attempted to bring about normative and societal shifts around enforcement and the treatment of animals through changing the procedural mechanisms of enforcement by enabling bystanders.<sup>153</sup>

## **2.4 The Incorporation and Deputation of Non-State Enforcement Initiatives**

While challenging state practices, these enforcement-based organizations began to fill the vacuum left by the lack of concerted state efforts. Met with government inaction and armed with legislation that protected them, groups such as the RSPCA became central to the enforcement of animal law. Anderson points out that

[n]early two centuries after this beginning, the Society has retained its important role in the prosecution of animal abuse crimes. . . Although the RSPCA . . . is now incorporated by statute, it has no special authority beyond that of any other citizen; yet, it has become and remains the *de facto* prosecutorial authority for many animal cruelty cases. Thus, we have ‘something of a constitutional novelty for a significant body of law to be largely enforced through the efforts of a charitable organization, funded entirely by voluntary contributions.’<sup>154</sup>

This popular model spread internationally, leading to the later deputation of organizations such as the American Society for the Prevention of Cruelty to Animals (ASPCA)<sup>155</sup> and the British Columbia Society for the Prevention of Cruelty to Animals (BC SPCA). What created conceptual shifts around animal welfare in enforcement initiatives quickly began to be codified in state enforcement practices.

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<sup>153</sup> Jerry L. Anderson, "The Origins and Efficacy of Private Enforcement of Animal Cruelty Law in Britain," 272.

<sup>154</sup> *Ibid.*, 265-266.

<sup>155</sup> *Ibid.*, 265-266.

## 2.5 Enforcement Initiatives, Civilizing Discourse, and the Growth of State Power

The co-opting of societies and groups deploying the direct enforcement initiative, however, also contributed to the growth of state power, influenced civilizing discourses around animals, and reinforced the exploitation of animals for food, clothing, entertainment, and so on. Historian Susan Pearson has noted that the deputation of societies, such as the RSPCA, the ASPCA, and so on, became a way for governments to “expan[d] state power through private means.”<sup>156</sup> Given that direct enforcement is herein defined as the enforcement of animal legislation by non-state actors, it becomes critical to identify the ways that organizations that enforce animal legislation, while separate from states,<sup>157</sup> can still play a role in expanding state power. Thomas Macaulay perceived the growth of animal law advocacy and enforcement to be part of a change that was quintessentially English. In *History of England* (1824-29), Macaulay writes, “it is pleasing to reflect that the public mind of England has softened while it has ripened, and that we have, through the course of ages, become, /not only a wiser, but also a kinder people.”<sup>158</sup> Anderson argues that

the formation of the RSPCA followed a long line of voluntary associations established to reform uncivilized behavior of the lower classes. The middle class, in particular, was inclined to use refinement of popular culture as a tool not only to ‘elevate[] the collective morality of the nation,’ but also to civilize them in a way that reduced their potential threat to the middle class.<sup>159</sup>

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<sup>156</sup> Ibid., 266-267.

<sup>157</sup> Where states is defined here as the governmental, political, and legal infrastructure that controls those within a particular region.

<sup>158</sup> Thomas Macaulay, *Macaulay's History of England* (London: The Aldine Press, 1906), <https://archive.org/stream/macaulayshistory01maca#page/n7/mode/2up>, 318.

<sup>159</sup> Jerry L. Anderson, “The Origins and Efficacy,” 275.

These organizations, therefore, mobilized upper class anxieties around the control and criminalization of the lower classes. Anderson further emphasizes that these associations were part of a larger ‘civilizing’ initiative:

[c]oupled with this benign explanation is a growing desire for more social control, arising from an upper- and middle-class anxiety about how to quell unrest among the laboring classes. The early nineteenth century saw frequent popular disturbances, rooted primarily in laboring class discontent. . . Thus, in addition to its moral virtues, Martin’s Act also imposed a measure of social control on the sort of unruly mobs found at badger fights and bull baits. The Act criminalized anti-social behavior that tended to make the upper classes nervous. Historians have linked the rise of vice societies to similar middle-class fears of an unrestrained working class. In the United States, Pearson notes that historians have considered American anti-cruelty groups in the late nineteenth century to be ‘less concerned with suffering [of animals and more concerned about] condemning and controlling the behavior of working-class and immigrant populations.’<sup>160</sup> The motive behind anti-cruelty legislation could be described more positively as aimed toward social ‘improvement’ rather than ‘control,’ although the two motives are closely intertwined. During the legislative debates on Martin’s Act and similar animal cruelty measures, supporters felt that leisurely pursuits involving bull-baiting or cock-fighting, for example, were not only cruel to the animals, but also were detrimental to the proper moral development of the audience. In addition to banning vulgar and violent behavior, the upper classes encourage the adoption of alternative, more ‘civilized’ leisure activities, which could be regulated so that they would not ‘challenge the requirements of the established order.’<sup>161</sup>

Growing concern for animals’ welfare in nineteenth century England was awakened by British travelers’ reactions of horror and disgust to the treatment of animals abroad. For example, historian Keith Thomas notes that the English became increasingly critical the bullfight in Spain and the treatment of horses in France. Such concerns, Thomas argues, were part of larger civilizing discourses that failed to reconcile the hypocritical truth that “it had

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<sup>160</sup> Keith Thomas, *Man and the Natural World, Changing Attitudes in England 1500-1800*, (London: Penguin Books, 1984), <https://books.google.ca/books/reader?id=qACGVWiq8SIC&printsec=frontcover&output=reader&pg=GBS.PT3>, 272.

<sup>161</sup> *Ibid.*, 273-275.



been the English themselves who had been notorious among travelers for their cruelty.”<sup>162</sup>

While it is true that there were nineteenth century advocates for animals whose concern was truly on behalf of the animals and humans alike, such concerns cannot be removed from the greater societal factors governing the creation of Martin’s act, the founding of the 1824 SPCA, and the early formulations of direct enforcement.<sup>163</sup>

## **2.6 Civilizing Discourse in Contemporary Direct Enforcement**

Euro-American theoretical and practical mobilizations of direct enforcement largely follow the above cited English model of enforcing animal welfare legislation; contemporary direct enforcement reproduces civilizing discourses. An example of a direct enforcement initiative that reproduces these civilizing discourses is Sea Shepherd’s 1998-1999 campaign against Makah whaling. The Makah tribe has hunted whales on the Olympic Peninsula for over 1500 years and the practice is considered central to Makah identity. However, the Makah ceased whaling in the 1930s because of the decimation of the gray and humpback whale populations by industrial whalers. When the Makah sought to resume whaling in 1988, however, “a loose coalition of animal rights [and conservation] groups and whale watching companies . . . worked to block the Makah from exercising their treaty-reserved rights.”<sup>164</sup> Foremost among these voices was Sea Shepherd, whose direct enforcement campaign relied on citing the illegality of Makah whaling, despite the 1855 Treaty of Neah Bay, which secured treaty-reserved rights for whaling and fishing at the expense of the loss of ninety

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<sup>162</sup> Ibid., 208-209.

<sup>163</sup> Ibid., 216-218.

<sup>164</sup> Charles Tanner, “Sea Shepherd Announces Revival of Campaign Against Makah Treaty Rights,” *Institute for Research & Education on Human Rights*, April 22, 2015, <http://www.irehr.org/2015/04/22/sea-shepherd-announces-revival-of-campaign-against-makah-treaty-rights/>.

percent of their land to the United States government.<sup>165</sup> Chuck Tanner argues that SSCS' campaign against Makah whaling was largely counterproductive:

[Sea Shepherd] spread misinformation about treaty rights. . . [and] falsely claimed in 2005 that the Treaty of Neah Bay had been abrogated. Sea Shepherd echoed the rhetoric of the organized anti-Indian movement, declaring erroneously that upholding Makah treaty rights would be “tantamount to extra special rights for a group of people based on race and/or culture.” Anti-Indian activists use this same language in their quest to terminate tribal governments and abrogate all treaties. Sea Shepherd, Project Seawolf, Australians for Animals and other groups allied their cause with then-U.S. Representative Jack Metcalf (R-WA). Metcalf (now deceased) was a leader in the anti-Indian movement who maintained a firm foot in the politics of organized white supremacy. Anti-Makah groups have lobbied, litigated and engaged in direct action, including harassing Makah whalers and the tribal community. These organizations' efforts to abrogate the Treaty of Neah Bay are racist to their core, seeking to violate a federally-protected tribal right through a campaign spewing misinformation and mean-spirited bigotry. This anti-tribal campaign is also wrong-headed for those committed to ecological restoration. The Makah are not now and have never been a threat to the gray whale population. Tribal struggles to exercise sovereignty and defend treaty rights are at the heart of efforts to stop coal trains and coal terminals, halt the Keystone XL pipeline, and restore salmon habitat and water quality. This anti-Makah mobilization threatens the treaty rights of all tribes and could drive a wedge between communities that need each other to gain genuine environmental and social justice.<sup>166</sup>

This is not to say that the renewed whale hunt was not heavily criticized and protested by Makah Elders. Isabell Ides, Harry Claplonhoo, Margaret Irving, Ruth Claplanhoo, Viola Johnson, Alberta N. Thompson, and Lena McGee publicly spoke against the revival of Makah whaling.<sup>167</sup> Nonetheless, the campaign, in its claims of the abrogation of treaty rights and dismissal of Makah concerns, aligned Sea Shepherd with colonial pursuits, leading some Makah to believe that the anti-whaling Makah elders such as Thompson had been tokenized

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<sup>165</sup> Charles Tanner, “Sea Shepherd Announces Revival.”

<sup>166</sup> Charles Tanner, “Sea Shepherd Announces Revival.”

<sup>167</sup> Lisa Kemmerer, *Animals and World Religions* (New York: Oxford University Press, 2012), <https://books.google.ca/books?id=fidwAgAAQBAJ&printsec=frontcover#v=onepage&q&f=false>, 52.

by the organization.<sup>168</sup> The campaign was further condemned by Makah leaders, who “read criticisms of their practices as thinly veiled expressions of ethnocentrism and hostility—that is, as reiterations of the colonial impulse.”<sup>169</sup> Claire Jean Kim, who draws upon insights from critical race theory and CAS, claims that Sea Shepherd’s direct enforcement against Makah whaling perpetuated “ecocolonialism or ecoracism—that is, ... the continuation of historical colonialism in contemporary ecological garb.”<sup>170</sup> Furthermore, Kim argues that SSCS

scoff[ed] at tribal, racial, and national concerns as narrow matters among humans, and ‘special interests,’ as a trivial distraction from the axis of power that really matters—that of human supremacy over animals. . . . the universalistic language of equality, ecological health, and animal considerability is invoked to provide protection for nature and nonhuman animals—but at the expense of a racialized minority whose claims are derogated as particularistic and selfish. It is not that SSCS is using eco-speak as a pretext for persecuting the Makah, then, but rather it is advancing animal and ecological concerns in a way that trivializes concerns about tribal or racial injustice.<sup>171</sup>

Kim and Tanner’s assertions draw attention to a trend in Western conceptualizations of direct enforcement. This trend applies Euro-American attitudes and legal structures uncritically to colonized, racialized, and/or otherwise marginalized populations. This practice sidesteps the social and moral concerns of the racialized minority. Furthermore, it results in ineffective

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<sup>168</sup> Monica, “Seashepherd Hate pt2: Seashepherd Humanizes the Whale and Dehumanizes Indians,” *Daughter of Tze Whit Zen* (blog), March 22, 2010 (4:10 p.m.), <http://tsewhitzen.blogspot.ca/2010/03/seashepherd-hate-pt2.html>.

<sup>169</sup> Claire Jean Kim, *Dangerous Crossings* (New York: Cambridge University Press, 2015), [https://books.google.ca/books?id=eOJwBwAAQBAJ&pg=PR1&dq=dangerous+crossings&hl=en&sa=X&redir\\_esc=y#v=onepage&q=dangerous%20crossings&f=false](https://books.google.ca/books?id=eOJwBwAAQBAJ&pg=PR1&dq=dangerous+crossings&hl=en&sa=X&redir_esc=y#v=onepage&q=dangerous%20crossings&f=false), 233.

<sup>170</sup> *Ibid.*, 233.

<sup>171</sup> *Ibid.*, 242.

actions that ultimately fail the animals for whom they advocate because, in their divisive tactics, they close off any potential for conversation and, therefore, change.

## **2.7 Colonialism, Androcentrism, and Anthropocentrism in Theorizations of Direct Enforcement**

The above sections discussed Deckha, Donovan, Donaldson, Belcourt, Kymlicka, Janara, Wolfe, Castricano, Derrida, Thomas, Pearson, and Kim criticisms of colonialism, anthropocentrism, and androcentrism in animal law advocacy and/or theorizing. Here, I discuss how colonialism, anthropocentrism, and androcentrism are perpetuated in Eilstrup-Sangiovanni and Phelps Bondaroff's theorizations of direct enforcement. In the next section, I briefly summarize Eilstrup-Sangiovanni and Phelps Bondaroff's definitions of direct enforcement. I then argue that this definition appeals strictly to Westernized concepts of legality, proportionality, universality, effectiveness, legitimacy, and rationality. In addition, I consider how this construction of direct enforcement superficially shelters the concept from dealing with colonial, anthropocentric, and racialized history of animal law enforcement and advocacy, despite the long relationship between animal law enforcement practices and the civilizing missions of nineteenth century England. I argue that Phelps Eilstrup-Sangiovanni and Phelps Bondaroff's definition of direct enforcement falls into the same tendencies of mainstream animal law advocacy and theorizing. In failing to address the anthropocentric, androcentric, and colonial tendencies of the current definitions and mobilizations of direct enforcement, the definition actively conceals the civilizing roots tangled beneath Western manifestations of the practice. Eilstrup-Sangiovanni and Phelps Bondaroff's definition follows the trend in mainstream animal law activism and theorizing, which is to ignore criticisms by exponents of feminism, Indigenous studies, critical race theory, and CAS. In my later Chapter Three and Chapter Four, I use two case studies to show how applications of

the direct enforcement tactic continue this uncritical trend, manifesting civilizing discourses and reinforcing the human/subhuman binary.

## **2.8 The Prevailing Definition of Direct Enforcement**

Scholars Eilstrup-Sangiovanni and Phelps Bondaroff trace the history of direct enforcement back to Sea Shepherd. They posit,

[d]irect action conceived as enforcement was, to our knowledge, first undertaken by the SSCS—a marine-oriented conservation organization founded in 1977 by Paul Watson. Founded with the explicit goal of “shutting down illegal whaling and sealing operations” (Hoek 2010:178).<sup>172</sup>

Eilstrup-Sangiovanni and Phelps Bondaroff then identify three aims of direct enforcement:

- 1) to frustrate or prevent the violation of an international law;
- 2) to raise the material costs of non-compliance to international law; and
- 3) to compel states to comply with international legal frameworks, and to initiate enforcement actions of their own.<sup>173</sup>

These aims illustrate the explicitly legally-inflected goals of direct enforcement and differentiate the tactic from other forms of direct action. These goals also resemble the aims of the above-mentioned enforcement history of the RSPCA, which were formed with the aims of norm entrepreneurship and law enforcement. This focus has the effect of detaching direct enforcement from colonialism, the expansion of state power, and the criminalization of the lower classes.

## **2.9 Direct Enforcement and Legitimacy, Legality, Effectiveness, and Rationality**

Eilstrup-Sanviovanni and Phelps Bondaroff define direct enforcement regarding the concepts of legitimacy, legality, effectiveness, and rationality. Appealing to legitimacy and legality through appeals to international law, they argue, enables organizations using direct

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<sup>172</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation: Direct Enforcement by Environmental NGOs," *International Studies Quarterly* 58, no. 2 (2014): 348-361, doi: 10.1111/isqu.12132, 353.

<sup>173</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 171.

enforcement to appear legitimate and distance themselves from being listed as terrorist organizations.<sup>174</sup> This could be especially important to organizations who are suspected of terrorism, such as SSCS.<sup>175</sup> Whereas direct action has been associated with ‘terrorism’ in philosophy and law, direct enforcement departs from direct action in that it strategically claims, instead, to enforce a law. For example, SSCS’s Southern Ocean campaigns used tactics such as prop fouling, blocking, and ramming to stop the whaling industry in the Southern Ocean. While such tactics do not necessarily constitute direct enforcement in and of themselves, they do merit the label if done under the auspices of enforcing legislation. This enforcement focus, they argue, enables organizations using the tactic of direct enforcement to stay within the bounds of legitimacy and legality. Further, Phelps Bondaroff argues that legal claims in direct enforcement “need not be entirely technically accurate,” but should be credible, as “international relations are characterized by politics and diplomacy rather than strict and technical legalism.”<sup>176</sup> Consequently, as perceived by Eilstrup-Sangiovanni and Phelps Bondaroff, direct enforcement is reliant on its positioning as a legitimate enforcement strategy rather than on the accuracy of its claims: direct enforcement activists “frame themselves as legitimate law enforcers empowered by a legal mandate,”<sup>177</sup> “seizing” their standing in international law.<sup>178</sup> In Eilstrup-Sangiovanni and Phelps Bondaroff’s ordering, legitimacy is conferred to organizations appealing to laws codified within a state-centric

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<sup>174</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation," 349.

<sup>175</sup> James F. Jarboe, "The Threat of Eco-Terrorism," *Federal Bureau of Investigation*, February 12, 2002, <https://web.archive.org/web/20080311231725/http://www.fbi.gov/congress/congress02/jarboe021202.htm>.

<sup>176</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 173-4.

<sup>177</sup> *Ibid.*, 172

<sup>178</sup> *Ibid.*, 173

approach to law enforcement (even if such use is technically inaccurate). For instance, SSCS's careful framing of the legality of the Southern Ocean campaigns was simultaneously directed at establishing both the legitimacy of SSCS action by appealing to international conservation law and the illegality of whaling, despite claims that the whaling was *prima facie* legal.<sup>179</sup>

Eilstrup-Sangiovanni and Phelps Bondaroff argue that this legal focus lends direct enforcement legitimacy, making direct enforcement "more effective in influencing environmental policy."<sup>180</sup> Indeed, they differentiate direct enforcement from other forms of direct action by virtue of direct enforcement's hypothetical effectiveness, which they argue is a result of its appeals to law, as opposed to public sentiment or moral claims.<sup>181</sup> Eilstrup-Sangiovanni and Phelps Bondaroff contrast direct enforcement to symbolic politics (which frame whales as sentient), information politics (which rely on scientific evidence), and leverage politics (which rely on lobbying efforts) while trying to highlight direct enforcement's primacy as an advocacy tactic.<sup>182</sup> Amidst claims that other forms of advocacy fail to meaningfully impact conservation efforts,<sup>183</sup> they identify a specific issue that direct enforcement addresses: "none of these strategies has been ultimately successful in persuading traditional whaling states to give up whaling."<sup>184</sup> They anchor their prediction of the future effectiveness of direct enforcement in the past victories of campaigns in the Southern Ocean, particularly the 89% shortfall of the Japanese whaling quota in 2012/2013 and the reported

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<sup>179</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation," 341.

<sup>180</sup> Eilstrup-Sangiovanni and Phelps Bondaroff, 359.

<sup>181</sup> *Ibid.*, 352.

<sup>182</sup> *Ibid.*, 350.

<sup>183</sup> *Ibid.*, 350.

<sup>184</sup> *Ibid.*, 350.

protection of 797 lives during the SSCS's direct enforcement campaign.<sup>185</sup> Phelps Bondaroff argues that this effectiveness derives from its focus on law, which allows it to speak "directly to states, and as a result, by-passes the need to communicate to the public."<sup>186</sup> They further argue that the tactic of direct enforcement avoids getting bogged down in "hotly contested" environmental norms and symbols.<sup>187</sup> The effectiveness of direct enforcement, for Eilstrup-Sangiovanni and Phelps Bondaroff, is thus largely measured by its assumption of moral neutrality via its use of legal speak. However, there are conceptual implications for framing enforcement initiatives and law as neutral, apolitical, and ahistorical.

## **2.10 Critiquing Direct Enforcement**

Following Deckha's call to re-think animal law advocacy and theorizing, and Phelps Bondaroff's appeal to "increase our understanding of [direct enforcement] and carry the promise of further revelations regarding the use of [this strategy],"<sup>188</sup> I argue that the current definition of direct enforcement reinforces human exceptionalism, colonialism (in its validation of Euro-American contracts over others), and androcentrism (in its juxtaposition of direct enforcement with other forms of direct action, which are painted as ineffective, ambiguous, sentimental, and moralizing). I contend that Eilstrup-Sangiovanni and Phelps Bondaroff's rely too heavily on SSCS's activism to construct direct enforcement, ignoring how Sea Shepherd's use of the tactic is coded within a larger history of statism, racialism, colonialism, classism, developmentalism, and anthropocentrism. In other words, such definitions remain uncritical of Braidotti's perception that "ideals of reason. . . equality under

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<sup>185</sup> *Ibid.*, 357.

<sup>186</sup> Teale Phelps Bondaroff, "Direct Enforcement on the High Seas," 174.

<sup>187</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation," 353.

<sup>188</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 204.



the Law and democratic rule. . . indeed historically have not been, mutually exclusive with European practices of violent domination, exclusion and systematic and instrumental use of terror.”<sup>189</sup> This reliance orients the tactic within relatively narrow Euro-American-centric understandings of proportionality, legality, and moral vs. legal claims at the expense of formulating radical interruptions that could serve to benefit both animal law, anti-colonial, and anti-racist advocacy.

For something to be considered “legal” it must fit a definition of “legality,” which is defined as anything (such as an action) that is in accordance with the law in any justice system. For example, there are times when murder does not fit in our current definition of “legality.” However, there are situations, in self-defense or war, in which murder is considered legal and thus fits under our definition of legality. There are still other times when the legality or illegality of murder might reflect cultural bias—for example, the acquittal of George Zimmerman for the murder of Trayvon Martin on the grounds of self-defense even though Zimmerman was in no danger, and was the one to shoot Martin, an unarmed teenager, who was returning from the store after buying candy. This incident only further serves to reveal a persistent and longstanding racial bias in the United States’ judicial system.

The legality of the exploitation of animals (i.e. whether a practice is considered legal when it is done to animals) is culturally biased. For example, there was a lawsuit in Canada in which a man was charged for sexually abusing his step-daughter by getting the dog to lick her genitalia while he videotaped it. He was recently acquitted because his transgression did not fit the court’s definition of what bestiality could be. This case clarified that bestiality is currently being interpreted to mean the physical penetration of an animal by another

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<sup>189</sup> Rosi Braidotti, *The Posthuman*, 37.

human.<sup>190</sup> How does this reflect Western understandings of legality? Because animals are sexually abused every day in industrial food systems, in zoos, and in aquariums. For example, Tilikum the orca whale, who resided at Sea World until his death, was continually forcibly stimulated by humans so that his semen can be used by humans to forcibly impregnate female orcas. Cows in the dairy industry are forcibly inseminated and have their calves taken away from them by humans every day to force them to produce more milk for human consumption. Arguably, moving to a more inclusive definition of bestiality that includes penetration, oral, or manual stimulation could be seen, especially by industry representatives, to jeopardize the mainstream industry practices of animal exploitation.

Will Kymlicka argues that the widespread definition of “legality” when it comes to animal exploitation is based on the idea that humans have “the right to benefit [from animal exploitation] so long as it is not unnecessary or cruel.”<sup>191</sup> Further, what is considered “unnecessary” or “cruel,” and therefore the legality of laws regarding animals, are also rooted in cultural bias. One could argue that the majority in North America do not think that killing pigs, chickens, insemination of cows for dairy, and so on, is unnecessary or cruel in

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<sup>190</sup> Gloria Galloway, “Supreme Court clarifies Canada’s bestiality law with ruling,” *The Globe and Mail*, June 9, 2016, <http://www.theglobeandmail.com/news/politics/supreme-court-clarifies-canadas-bestiality-law-with-ruling/article30371581/>.

<sup>191</sup> Will Kymlicka, “Animals and Social Justice,” presented at Sydney Environmental Institute, Sydney, Australia, August 25, 2016, <https://www.youtube.com/watch?v=yMtwbur0ylo>.

and of itself. Therefore, such actions are understood as legal and fit into Western definitions of legality around animals.

### **2.10.1 Defining Proportionality**

Just as the concept of “legality” is influenced by majoritarian views, so too is the idea of proportionality. One need only look at the disparity between the reactions of the United States’ enforcement officers to the Oregon refuge takeover and the Standing Rock Sioux blockade. In the former, enforcement officers responded to the forty-one day armed takeover of an National Wildlife Refuge to impose the imprisonment of ranchers for setting fire to public land.<sup>192</sup> In the end, the perpetrators were acquitted and the land was turned over to the control of the “descendants of the original American occupiers,” specifically for the continued use of lands for the animal exploitation industry.<sup>193</sup> In the latter, the enforcement responded using armored vehicles, beanbag guns, automatic weapons, and full riot gear to target a peaceful blockade of the road at an action against the Dakota Access Pipeline. The blockade takes a stand against both the colonialism inherent in the construction of the pipeline (the pipeline company’s destruction of sacred sites and failure to achieve the consent of the Standing Rock Sioux, on whose territory the pipeline is being built).

Regarding animal law and proportionality, one can consider a situation in which an individual sees a dog in a car whose indoor temperature is 49 degrees Celsius. The dog is foaming at the mouth, lying on the seats, and visibly seizing, and the driver of the vehicle is nowhere in sight. Under the provincial law of British Columbia, to break the window of the

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<sup>192</sup> Gillian Flaccus, “Parallels Seen Between Protests of Dakota Pipeline, Oregon Refuge Occupation,” *PB FM*, October 30, 2016, Portland, Oregon  
<http://www.opb.org/news/series/burns-oregon-standoff-bundy-militia-news-updates/oregon-standoff-trial-dakota-access-pipeline-protests/>.

<sup>193</sup> *Ibid.*

car is illegal, even for a police officer. However, it is nonetheless a practice that occurs throughout the summer. One legal argument for the practice could be that breaking the car window also technically relieves an animal in distress, and thus could be seen to enforce animal protection laws. Compare this situation to the recent trial of Anita Krajnc, the founder of Toronto Pig Save, who, not breaking any windows but, by simply giving water to pigs through openings in an animal transport truck—pigs who were facing comparable levels of distress in transport trucks on their way to slaughter—was charged with “criminal mischief.”<sup>194</sup> Such actions would seem to suggest that state, police, nonprofit, and public perceptions of what is considered proportionate are encoded within cultural biases that privilege animals that are viewed as pets over animals that are viewed as consumable and disposable.<sup>195</sup> In Canada, while the actions of the person or police officer that saves the dog from the car are proportionate, the actions of an activist, such as Anita Krajnc, to give water to a pig, are not.

### **2.10.2 Direct Enforcement and Legality and Proportionality**

Phelps Bondaroff warns that the tactic of direct enforcement is limited, as organizations practicing the tactic need to be legally credible and appear proportionate so their efforts are considered legitimate, as opposed to illegitimate (for example, actions conflated with terrorism or piracy).<sup>196</sup> As a result, Phelps Bondaroff argues that direct enforcement is a “conservative strategy” because direct enforcement “reinforces existing

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<sup>194</sup> Adam Carter, “Woman already on trial for giving water to pigs arrested after pig truck rollover,” *CBC News*, October 5, 2015, <http://www.cbc.ca/news/canada/hamilton/pig-rollover-1.3791972>.

<sup>195</sup> This is not to suggest that animals that are considered “pets” such as cats and dogs are not also seen as disposable or tied to industry interests.

<sup>196</sup> Teale N. Phelps Bondaroff, “Direct Enforcement on the High Seas,” 183.

[power] structures.”<sup>197</sup> Phelps Bondaroff contends that “DE . . . modif[ies direct action] to optimise effectiveness in the international arena.”<sup>198</sup> He continues, arguing that “there is power inherent in actions which seek to enforce the law, and by extension, that evoking the law can strengthen rhetoric and serve as a means to circumvent deadlocks which tend to occur as a result of protracted normative conflicts.”<sup>199</sup> In summary, Phelps Bondaroff argues that the conservative nature of direct enforcement, primarily, direct enforcement’s adherence to the concepts of legality and proportionality, are what make it an extremely effective tactic. Phelps Bondaroff maintains that direct enforcement’s legitimacy and effectiveness are also a result of direct enforcement’s references to legal rather than normative or moral justifications.<sup>200</sup>

However, Phelps Bondaroff’s view of direct enforcement, which maintains that direct enforcement is effective, and that its effectiveness derives from its conservative nature, is misleading. First, it relies on a shortsighted understanding of what constitutes “effective” animal law advocacy. Arguments that activism is more effective when it “reinforces existing [power] structures”<sup>201</sup> are a fundamental misrepresentation of where activist movements get their strength: movements’ ability to *subvert* existing power structures from an intersectional perspective. While legal channels can be used to effectively influence the practices of legality (what is considered legal or illegal), legality cannot be influenced without a fundamental understanding of the ways that legality is formulated in national and international law, systems that are based on the idea “of the right to benefit [from animal exploitation] so long

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<sup>197</sup> Ibid., 173.

<sup>198</sup> Ibid., 173.

<sup>199</sup> Ibid., 204.

<sup>200</sup> Ibid., 56.

<sup>201</sup> Ibid., 173.

as it is not unnecessary or cruel.”<sup>202</sup> More importantly, though, it fails to recognize that this position relies not upon public perceptions of what is unnecessary or cruel, but what those with power, who actively benefit off of animal exploitation, view as “unnecessary” or “cruel.”<sup>203</sup> As Will Kymlicka argues,

Because we work in a legal structure which is not based on animal rights, but rather is based on this idea of the right to benefit so long as it is not unnecessary or cruel, that, inevitably, I think, it will always operate in a way that immunizes the majority. Whatever the majority does to animals is seen as necessary. Whatever minorities do that doesn't contribute to the majority's flow of pleasures is seen as unnecessary and cruel. The current legal structure not just permits, I think it actually guarantees the culturally biased application of animal welfare. By contrast, if we actually had an animal rights agenda, it would provide much less scope for this kind of culturally biased application of animal welfare because it would define legality in terms of the rights of animals rather than in terms of the majority's sensibilities or majority practices. [ . . . ] If we want to challenge this culturally biased interpretation of animal welfare standards, we precisely need a legal framework which does not privilege majority practices and majority sensibilities, but rather requires both majorities and minorities to give some moral justification for their treatment of animals. And, so, again, the issue about cultural bias is a very fundamental one for the left. . . the culturally biased interpretation of normative standards.<sup>204</sup>

While animal rights may not necessarily be advocates' true aim (as addressed earlier on, there are many criticisms of the concept of rights), the failure to recognize the norms that underlie legality, proportionality, and, thus, legitimacy, and citations that reinforcing these systems of power is effective, is largely counterproductive. It is especially problematic in a movement such as animal advocacy, which, as Blaire French conceptualized in her novel *The Ticking Tenure Clock*, is an “orphan to the left”<sup>205</sup> (were animal advocacy alienates itself from other causes on the left by invoking cultural bias and reinforcing racism and colonialism). Charles Tanner argues that Sea Shepherd's enforcement of international

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<sup>202</sup> Will Kymlicka, “Animals and Social Justice.”

<sup>203</sup> Ibid.

<sup>204</sup> Ibid.

<sup>205</sup> Ibid.

whaling law has resulted in the same cultural bias that has had a counterproductive effect on social justice across the country. Tanner argues that Sea Shepherd's enforcement in international law undermined the legitimacy of treaty rights as well as the "larger struggle by tribes across the country to exercise treaty-reserved fishing, [and] water and resource rights,"<sup>206</sup> further detracting from efforts to stop coal trains and pipelines and land defence campaigns, which would likely increase the number of animals saved as a result of resource extraction and oil spills.<sup>207</sup>

Further, Phelps Bondaroff asks whether conceptualizations of direct enforcement that include "municipal and tribal law" or "laws originating from sources other than the state or international agreements" might jeopardize the "authority and power of [direct enforcement]."<sup>208</sup> This question indicates a fear that including such work would undermine the presumed legitimacy and effectiveness of direct enforcement. This argument is duplicitous: if a stipulation of direct enforcement is that legal claims in direct enforcement need not be technically accurate<sup>209</sup> to the exclusion of (arguably more accurate) claims made outside of Western ethico-politico-juridical discourse (such as Indigenous laws) out of fear that the claims will be delegitimized, then the current theorization of direct enforcement has internalized colonial valuations of legal legitimacy and is complicit in colonialism. These mobilizations of direct enforcement automatically foreclose radical opportunities to intervene in the privileging of humans over those considered sub-human. These aspects of Phelps

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<sup>206</sup> Charles Tanner, "Sea Shepherd Announces Revival of Campaign Against Makah Treaty Rights," *Institute for Research & Education on Human Rights*, April 22, 2015, <http://www.irehr.org/2015/04/22/sea-shepherd-announces-revival-of-campaign-against-makah-treaty-rights/>.

<sup>207</sup> *Ibid.*

<sup>208</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 204.

<sup>209</sup> *Ibid.*, 173-74.

Bondaroff's definition of direct enforcement reinforce the colonial belief that legal structures outside of the Western context are invalid. Constructing legality solely in relation to Western humanist contracts perpetuates laws that are, as Patrick Lenta argues, "responsible for the criminality of the colonized,"<sup>210</sup> and, in doing so, continue to reassert the human/sub-human divide at the root of all oppression.<sup>211</sup> Eilstrup-Sangiovanni and Phelps Bondaroff's definition further ignores grassroots organizations and First Nations' movements that predate the activism they use to define direct enforcement—movements that continue to challenge anthropocentric, colonial, and Western discourse.<sup>212</sup> An example of such organizing includes the Standing Rock Sioux's movements against the Dakota Access Pipeline. Such mobilizations of direct enforcement would challenge Phelps Bondaroff's perception of direct enforcement as an "inherently conservative... exercise."<sup>213</sup>

Similarly, Eilstrup-Sangiovanni and Phelps Bondaroff's claims delegitimize a form of advocacy that has been central to First Nations activism in Canada and could constitute anti-colonial direct enforcement: blockades. In their article, they argue, blockades are "rarely successful"<sup>214</sup> and do not constitute direct enforcement. This statement participates in the erasure of First Nations and Indigenous work that arguably constitutes some of the most effective direct enforcement campaigns. For instance, work done by the Oshkimaadziig

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<sup>210</sup> Patrick Lenta, "Iron Law and Colonial Desire: Legality and Criminality in Paton's *Too Late the Phalarope*," *Journal of Literary Studies* 24, no. 3 (2008): 68-85, doi: 10.1080/02564710802024834.

<sup>211</sup> Aph Ko, "Afrofuturism and Black Veganism."

<sup>212</sup> I expand further on these movements in Chapter Five.

<sup>213</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 173.

<sup>214</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 351.



Unity Camp,<sup>215</sup> Musgamagw Dzawada'enuxw Cleansing Our Waters,<sup>216</sup> A Voice for the Voiceless,<sup>217,218</sup> the defenders of Lax U'u'la's,<sup>219</sup> and the Unist'ot'en Camp,<sup>220</sup> and the Standing Rock Sioux Defense of lands against the Dakota Access Pipeline.<sup>221</sup> Each of the above instances represent norm entrepreneurship around enforcement and law: resisting a colonial history of genocide that claims First Nations laws do not have authority. Eilstrup-Sangiovanni and Phelps Bondaroff's argument, therefore, fails to address the unexamined biases behind claims that neither blockades<sup>222</sup> nor Indigenous laws would result in effective direct enforcement campaigns.<sup>223</sup>

While appealing to state and legislative bodies may be seen to help organizations foment change, movements that rely primarily on increasing their legitimacy in the eyes of the state and policing institutions run the risk of alienating local activists, others within

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<sup>215</sup> Giibwanisi, "The Path to Biskaabiiyaang," *The Dominion: News from the Grassroots* (2016): 14-15, [http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion\\_summer2016\\_land\\_defence\\_warrior\\_up.pdf](http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion_summer2016_land_defence_warrior_up.pdf), 15.

<sup>216</sup> Cleansing Our Waters, "Cleansing Our Waters," *Cleansing Our Waters*, Accessed October 21, 2016, <http://cleansingourwaters.com>.

<sup>217</sup> Christine Jack, "A Voice for the Voiceless," *The Dominion: News from the Grassroots* (2016): 28, [http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion\\_summer2016\\_land\\_defence\\_warrior\\_up.pdf](http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion_summer2016_land_defence_warrior_up.pdf), 28.

<sup>218</sup> Christine Jack, "A Voice for the Voiceless," River Voices, May 23, 2015, <https://www.youtube.com/watch?v=-3SUTQcliXg>.

<sup>219</sup> Ashley Zarbatany, "The Petronas Project and the LNG Pipe Dream," *The Dominion: News from the Grassroots* (2016): 25-26, [http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion\\_summer2016\\_land\\_defence\\_warrior\\_up.pdf](http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion_summer2016_land_defence_warrior_up.pdf), 23.

<sup>220</sup> Ibid.

<sup>221</sup> Sacheen Seitcham and Amy Goodman, "Morton County Court House with Amy Goodman," *West Coast Women Warriors Media Cooperative* (Facebook page), October 17, 2016, <https://www.facebook.com/Westcoastwomenwarriors/?pnref=story.unseen-section>.

<sup>222</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 351.

<sup>223</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 204.

intersecting social justice movements, and those on the left. Furthermore, the alienation of local communities mitigates any substantive change in legal or enforcement practices, as state and legislative bodies can be seen as complicit in violence towards activists and failing to enforce legislation. They strengthen the practices of legality that hold majoritarian animal exploitation as legal and minoritarian animal exploitation as criminalized, reinforcing racism and colonialism for short-term gain.

### **2.10.3 Direct Enforcement and Legal Versus Moral Claims, Normative Arguments, and Emotional Appeals**

Phelps Bondaroff and Eilstrup-Sangiovanni argue that direct enforcement is more effective than moral arguments, emotional appeals, normative claims, and other tactics that appeal to the public. These latter tactics are presented as being less effective at “promoting conservationist goals”<sup>224</sup> than direct enforcement, which relies on legal claims. Eilstrup-Sangiovanni and Phelps Bondaroff argue that the latter tactics rely on moral claims and lead to unproductive moral standoffs.<sup>225</sup> Instead, they posit that direct enforcement can transcend these standoffs and create viable change because, they argue, direct enforcement is “morally neutral.” They state, “appealing to an established legal norm (as opposed to cultural or developmental rights) to provide a morally neutral way of advancing conservationist claims and thereby shields campaigns against political backlash.”<sup>226</sup> The moral neutrality of Eilstrup-Sangiovanni and Phelps Bondaroff’s construction of direct enforcement is poised in opposition to purportedly ineffective emotional appeals. They argue “boosting pro-whaling

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<sup>224</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation," 354.

<sup>225</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation," 352.

<sup>226</sup> *Ibid.*, 353.

sentiment. . . public opinion backlash . . . [and the] harmed . . . image of anti-whaling groups. . . confirms our hypothesis that strategies of shaming and persuasion based on moral and emotional arguments are vulnerable to backlash where conflicting economic and cultural interests are at stake.”<sup>227</sup> To summarize, Eilstrup-Sangiovanni and Phelps Bondaroff base their argument on the notion that direct enforcement is more effective on two generalizing and speculative premises: (1) that moral and emotional appeals that attempt to persuade public sentiment inevitably lead to backlash and are ineffective and (2) direct enforcement is morally neutral.

These premises are flawed in that they incorrectly assume that moral or emotional claims, and/or attempts to persuade the public, will be ineffective. While it is true that, as they argue, shaming can be an unproductive way to promote activism, it is not true of persuasion or including communities in the conversation. Perceiving these tactics in this way distracts from the central issue at stake in mainstream animal activism: to target the use of animals by marginalized and racialized populations to a greater extent than the majority’s use of animals and, even more, to do so in a way that reinforces racism and colonialism.<sup>228</sup>

Secondly, in categorizing direct enforcement’s legal claims in opposition to moral claims, and in labelling moral claims as ineffective, Eilstrup-Sangiovanni and Phelps Bondaroff present law and enforcement practices as morally neutral, rational (as opposed to emotional or irrational), and effective. The claim that law, or the mechanisms used to enforce it, is morally neutral has come under significant scrutiny, especially post World War II in the realization that “the Nazi regime . . . [showed how] law is not necessarily just and that the

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<sup>227</sup> Ibid., 355.

<sup>228</sup> Will Kymlicka, “Animals and Social Justice.”

law can be morally heinous and still be law . . . [that] legality is never a guarantee of justice or moral soundness.”<sup>229</sup> Andrei Marmor argues,

law has moral and political functions in our society. It is there to solve, among other things, moral and political problems. Therefore, it would be futile, if not meaningless, to try to elucidate the nature of law in terms that do not employ moral concepts and do not involve an understanding of the kind of moral and political problems that the law is there to solve. For example, if the law is essentially an authoritative institution, we cannot understand the law without an understanding of what authorities are, what is their rationale, and how authorities function in our practical deliberation. No theory about the nature of authority can do without ‘reference to morality.’<sup>230</sup>

Authority, especially the authority and legitimacy of the law and enforcement mechanisms established through colonial and racial violence are not exempt from moral criticism.

Inconsistencies in the argument that law is morally neutral, or that it is universally applicable, are particularly salient when discussing British imperialism and colonialism—traces of such colonial law can still be found in contemporary legal documents. In reference to laws enacted in England, India, and Canada (specifically in British Columbia), Douglas Harris argues that “law and state in the first world were ‘oriented towards the elimination of pre-capitalist modes,’ in the third world they were ‘oriented towards the conservation and continuing exploitation of the traditional mode.”<sup>231</sup> For example, *The Black Act* (1723) made hunting in the King’s forest a capital offense for foresters, where they were “hanged for killing deer, catching fish, cutting turf, or taking timber.”<sup>232</sup> Defending this “sustain[ed] not only by competing economic interests or material need, but also [. . .] competing visions of legal

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<sup>229</sup> Andrei Marmor, "Legal Positivism: Still Descriptive and Morally Neutral," *Oxford Journal of Legal Studies* 26, no. 4 (2006): 683-704, doi: 10.1093/ojls/gqi028, 692.

<sup>230</sup> *Ibid.*, 688.

<sup>231</sup> Douglas C. Harris, *Fish, Law, and Colonialism: The Legal Capture of Salmon in British Columbia*, (Toronto: University of Toronto Press, 2000), 192-193.

<sup>232</sup> *Ibid.*, 192.

entitlement.”<sup>233</sup> These legal initiatives, Harris argues, were a result of “[t]he colonial power’s interest in maintaining a nominally traditional sector [,which] lay primarily in subsidized labour; supporting a meagre subsistence economy was one means of ensuring dependent and inexpensive Indigenous labour force.”<sup>234</sup> Harris maintains,

Law was at the forefront of European colonialism in the late nineteenth and early twentieth centuries. Not only was it a vehicle through which colonizing powers secured control of other territories and people, but at a basic level it justified the colonial projects. In their imperial expansion, Europeans believed they brought civility to supplant savagery, Christianity to banish superstition, progress to supersede status, and law to replace anarchy. Law, like the Christian gospels, was a contribution from the metropolitan country to its ‘uncivilized’ colony. In *knowing* and representing the *other* as savage and superstitious, living in anarchy, Europeans could, with confidence, impose their civility, religion, and law. With knowledge of the other came power over the other, and although power was expressed in many forms, law was a principal conduit. . . . In territories claimed for the British Crown, particularly those that became settler colonies, establishing English law was essential to the colonial project. Where necessary, European colonial powers used other, blunter instruments of force, including gunboats and infantry, to secure control. Pervasive violence, so powerfully portrayed in Frantz Fanon’s *The Wretched of the Earth*, lingered in the background of every imperial enterprise, supporting the power of the colonial state, ready to defend European nationals and their property.<sup>235</sup>

Harris’ argument demonstrates how Britain’s colonization of India and British Columbia mobilized laws as part of a civilizing discourse that found traction in an “ideology of legalism.”<sup>236</sup> These legislative and structural processes attempt to rationalize colonization and the oppressive violence that inherently follows from the colonial project. The ideology of legalism, which is implicit in Eilstrup-Sangiovanni and Phelps Bondaroff’s current framing of direct enforcement, ignores how law has historically been framed as a calculated and rationalistic attempt to control marginalized, feminized, colonized, and animalized

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<sup>233</sup> Ibid., 192.

<sup>234</sup> Ibid., 193.

<sup>235</sup> Ibid., 188.

<sup>236</sup> Ibid., 190.

populations by obfuscating and discrediting moral, emotional, and feminist criticism of laws. Assertions of rationality and rejections of such criticism reflect colonial attitudes towards the colonized. As described by Frantz Fanon,

[d]uring the period of decolonization the colonized are called upon to be reasonable. They are offered rock-solid values, they are told in great detail that decolonization should not mean regression, and that they must rely on values which have proved to be reliable and worthwhile. . . The supremacy of white values is stated with such violence, the victorious confrontation of these values with the lifestyle and beliefs of the colonized is so impregnated with aggressiveness.<sup>237</sup>

This criticism, alongside Donovan and Belcourt's earlier mentioned criticisms, can be informative when formulating new approaches to direct enforcement. I refer, here, to Donovan's criticism (on animal rights and utilitarian-based legal advocacy, particularly how it reinforces androcentrism) and Belcourt's criticism (of animal rights frameworks and how they reinforce settler colonialism).<sup>238</sup>

## 2.11 Summary

Direct enforcement, as defined by Eilstrup-Sangiovanni and Phelps Bondaroff, relies on Euro-American ideologies of proportionality, legality, and legitimacy and eschews appeals to morality, since these are seen to be ineffective. This section has sought to criticize how these principles uphold the human/subhuman divide. Applying these criticisms to direct enforcement campaigns, Chapters Three and Four address to what extent Operation GrindStop and Operation Jairo. Moving forward, these critiques of Eilstrup-Sangiovanni and Phelps Bondaroff's definition of direct enforcement, and its manifestations in Operation GrindStop and Operation Jairo, inform the recommendations made in Chapter Five.

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<sup>237</sup> Frantz Fanon, *The Wretched of the Earth*, trans. Richard Philcox (New York: Grove Press, 1963), 8.

<sup>238</sup> Josephine Donovan, "Animal Rights and Feminist Theory," 351; Billy-Ray Belcourt, "Animal Bodies, Colonial Subjects," 7.

### **Chapter 3: Direct Enforcement and Operation GrindStop**

*I'm on the plane to Vágur airport when a woman sits down next to me. I am wearing Sea Shepherd clothing and she introduces herself. We talk and she asks me where I am from. I tell her I am here with Sea Shepherd, and that my participation in the campaign is part of a larger project in which I am looking at animal law advocacy and its intersections with culture. Surprised at my remark, she relates to me her negative perception of Sea Shepherd volunteers because of international media, previous campaigns, and her interactions with volunteers. We get to talking about Faroese culture and nationality. She confides that she works in a place that sells pilot whale meat. She tells me to come drop by and say hello if I am ever nearby.*

*About a week later, I jump into a car and am given a camera and told to film. I am informed that, as the sea is choppy, we must get the boat out of the water, we need to do it quickly, and I need to film the entire scenario. As each of the other slipways have been blocked by cement slabs, we take the boat to the last slipway we can feasibly use. When we have our boat on the slipway, community members gather—children who are playing look over at the commotion, mothers on a walk stop on the main road to watch. A couple of cars show up with men in them as I press record. One minute later, I am on the hood of a car. The next afternoon, I am in the police station, staring at a sizeable picture of a grindadráp on the wall, being told by a police officer that the man, a whaler, who hit me with his car did not mean to hurt me and that he felt bad about it.*

*On the street, I am asked if I have ever tried pilot whale.*

*While visiting a home of a woman, who identifies as anti-grindadráp, I am asked if we have guns on the boats. She looks worried. I can hear her children playing in an adjacent room.*

*While fueling at a gas station, I am asked by a self-identified whaler if I eat meat.*

The above entries show the different reactions to my presence as a Sea Shepherd volunteer and the tactics Sea Shepherd was employing in the Faroe Islands. Over the summer of 2014, I participated in Sea Shepherd's Operation GrindStop as a ground and media crew member. Operation GrindStop ran from June 11<sup>th</sup> to October 1<sup>st</sup> of 2014. I was on the campaign from the 22<sup>nd</sup> of June to August 9<sup>th</sup>. I chose Operation GrindStop because, uncharacteristic of other Sea Shepherd campaigns, it mobilized direct enforcement on land. That is to say that SSCS framed the *grindadráp* (whale slaughter) as illegal and intervention by SSCS as legal. However, SSCS and its representatives continually made harsh and

insulting claims about the Faroese people and the *grindadráp*. They insisted that pilot whales were being “senselessly slaughtered” in the “Ferocious Isles” “in so-called ‘traditional’ communal drive hunts that locals refer to as ‘grindadráp’”<sup>239</sup> by uncivilized,<sup>240</sup> law-breaking,<sup>241</sup> “barbarians,” “psychopaths,” and “thugs,”<sup>242</sup> per Sea Shepherd. Such accusations escalated anti-Sea Shepherd sentiments, causing many to ridicule the campaign as a failure.<sup>243</sup> There were also discrepancies between the ways Sea Shepherd framed their

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<sup>239</sup> Sea Shepherd Conservation Society "About the Campaign."

<sup>240</sup> Paul Watson, "A Note to all the Pro-Whale Murdering Sea Shepherd Haters in the Faroe Islands," *Sea Shepherd Conservation Society*, July 7, 2014, <http://www.seashepherd.org/commentary-and-editorials/2014/07/07/note-to-all-the-pro-whale-murdering-sea-shepherd-haters-in-the-faroe-islands-657>.

<sup>241</sup> Paul Watson, "The Day After the Slaughter," *Sea Shepherd Conservation Society*, August 31, 2014, <http://www.seashepherd.org/commentary-and-editorials/2014/08/31/the-day-after-the-slaughter-667>.

<sup>242</sup> Paul Watson. "A Cruel and Remorseless Slaughter Today on the Beach in the Ferocious Isles," *Captain Paul Watson* (Facebook page), August 26, 2016, <https://www.facebook.com/captpaulwatson/posts/10154244597870932>.

<sup>243</sup> Hans P. Roth, "Projekt-Bericht Färöer Juni-Juli 2012," August 25, 2015, accessed October 21, 2016, [http://diebucht.ch/tl\\_files/pdf/082512-OceanCare-Report-Faeroeer-ergaentz-OC-hpr.pdf](http://diebucht.ch/tl_files/pdf/082512-OceanCare-Report-Faeroeer-ergaentz-OC-hpr.pdf), 9; Megan Jerrard, "Whale Hunting in the Faroe Islands Has Received a Bad Reputation. But here's what Social Media is Getting Wrong," *Matador Network*, June 9, 2016, <http://matadornetwork.com/life/whale-hunting-faroe-islands-received-bad-reputation-heres-social-media-getting-wrong/>; Sasha Abdolmajid, "Faroe Islands — Foreign Activists Provoke Patriotic Reaction," *Digital Journal*, December 16, 2014, <http://www.digitaljournal.com/news/environment/op-ed-faroe-islands-foreign-activists-provoke-patriotic-reaction/article/420670>; Katrin Petersen as cited in Miranda Metheny, "My Life in Norðragøta," Accessed October 21, 2016, <https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/44595/AM-BlogSamples.pdf?sequence=10>, 7; Benedict Singleton, "Love-iathan, the meat-whale and hidden people: ordering Faroese pilot whaling," *Journal of Political Ecology* 23, (2016): 26-48, [http://jpe.library.arizona.edu/volume\\_23/Singleton.pdf](http://jpe.library.arizona.edu/volume_23/Singleton.pdf), 42-44; "Whalers Versus Activists: The Fight Over the Kings of the Ocean," *Chevy.to.my.levi* (blog), July 25, 2016, <https://chevytomylevi.wordpress.com/2015/07/25/whalers-versus-activists-the-fight-over-the-kings-of-the-ocean/>; Jákup only uses his first name because he has been targeted and attacked for his views. Jákup, "Thoughts of a Former Whale Hunter in the Faroe Islands," *Ceta Journal*, August 11, 2014, <http://www.cetajournal.net/thoughts-of-a-former-whale-hunter-in-the-faroe-islands/>; Sasha Abdoulmajid, "Op Ed: From the Faroese Perspective – the Pilot Whale Hunt," *Digital Journal*, August 29, 2014, <http://www.digitaljournal.com/news/environment/op-ed-from-the-faroese-perspective-the>



effectiveness; their campaign statement read, “not a single pilot whale was killed while Sea Shepherd patrolled the islands” on its earlier, 2011, campaign, that in 1985 they had saved “approximately 500 pilot whales.”<sup>244</sup> Such claims, however, are in stark contrast to the numbers; despite the fact that SSCS ran campaigns in 1985, 1986, 2000, 2011, 2014, 2015, and 2016 campaigns, 2596, 1676, 867, 726, 48, 508, and 76 cetaceans were killed each year in *grindadráp*, respectively. While in the Faroe Islands, I also began to learn of several Faroese anti-*grindadráp* activists. These activists were not only willing to speak about their resistance to *grindadráp*, but also about their alienation relative to Sea Shepherd’s activism in the Faroe Islands in comparison with their own.<sup>245</sup> Sea Shepherd’s approach contrasts with the approach of Faroese activists, which I address at the end of this chapter. For instance, the

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[pilot-whale-hunt/article/400106](#); Drew Robert Winter, "Whale Wars with Market Forces: Neoliberal Veganism and the Meaning of the Grindadráp," presented at Moral Cultures of Food Conference, Denton, April 2, 2015, [https://www.academia.edu/11802964/Whale\\_Wars\\_with\\_Market\\_Forces\\_neoliberal\\_veganism\\_and\\_the\\_meaning\\_of\\_the\\_Grindadráp](https://www.academia.edu/11802964/Whale_Wars_with_Market_Forces_neoliberal_veganism_and_the_meaning_of_the_Grindadráp), 8.

<sup>244</sup> Sea Shepherd Conservation Society, "Sea Shepherd History Stopping the Grind," *Sea Shepherd Conservation Society*, accessed October 22, 2016, <http://www.seashepherd.org/grindstop/about-campaign/sscs-history.html>.

<sup>245</sup> Hans P. Roth, "Projekt-Bericht Färøer Juni-Juli 2012," 9; Megan Jerrard, "Whale Hunting in the Faroe Islands."; Sasha Abdolmajid, "Faroe Islands — Foreign Activists Provoke Patriotic Reaction."; Katrin Petersen as cited in Miranda Metheny, "My Life in Norðragøta," 7; Benedict Singleton, "Love-iathan, the meat-whale and hidden people: ordering Faroese pilot whaling" 42-44; "Whalers Versus Activists: The Fight Over the Kings of the Ocean," *Chevy.to.my.levi*; Jákup, "Thoughts of a Former Whale Hunter"; Sasha Abdoulmajid, "Op Ed: From the Faroese Perspective"; Drew Robert Winter, "Whale Wars with Market Forces," 8.

project Grindaboð by Marna Frida Olsen, the documentary *Grindahvalur*, or the activism and scholarship of Rúni Nielsen, Pál Weihe, Jans Mortan Rasmussen, and Ingi Sørensen.

### 3.1 The Grindadráp

The *grindadráp* is a traditional opportunistic whale slaughter that occurs in the Faroe Islands, an archipelago in the North Atlantic colonized<sup>246</sup> by the Norse in the eighth century.<sup>247</sup> The *grindadráp* has been part of Nordic diets for over the last 1200 years, although the whaling practices and the laws governing them have changed since. Laws concerning the *grindadráp* have been passed down from old Norse laws and were codified into the Danish legal system in the twentieth century—the codification representing a move, on behalf of Denmark, to recognize the practice and its associated sense of nationalism. The first recorded *grindadráp* occurred in 1584,<sup>248</sup> although the first *grindadráp* is said to have occurred in the same century as the Faroe Island’s colonization.<sup>249</sup>

The *grindadráp* itself is largely non-commercial (although whale and dolphin flesh can be found in grocery stores and is sold online)<sup>250</sup> and, more traditionally, the crafting of tools, such as buoys, shoes, and children’s toys.<sup>251</sup> The cetaceans targeted by the practice

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<sup>246</sup> Following Russel Fielding’s use of this term, I use the word “colonized” here as well to represent that the settlement of the Faroe Islands, and indeed the colonial project, is not limited to its effect on humans, but also to the non-human animals and plants that, in this case, occupied the archipelago before settlement.

<sup>247</sup> Símun V. Arge, Guðrún Sveinbjarnardóttir, Kevin J. Edwards, and Paul C. Buckland, "Viking and Medieval Settlement in the Faroes: People, Place and Environment," *Human Ecology* 33, no. 5 (2005): 597-620, doi: 10.1007/s10745-005-4745-1, 598.

<sup>248</sup> "Grindayvirlit 1584-2015," *Heimabeiti*, accessed October 19, 2016, <http://www.heimabeiti.fo/default.asp?menu=71>.

<sup>249</sup> Seán Patrick Kerins, “Whaling in the Faroes: *Søtur Er Sjálvgivin Biti*,” (doctoral dissertation, Griffith University, 2008), [https://www120.secure.griffith.edu.au/rch/file/94edd8bf-7472-8af9-7f4d-eff72e113926/1/Kerins\\_2008\\_02Thesis.pdf](https://www120.secure.griffith.edu.au/rch/file/94edd8bf-7472-8af9-7f4d-eff72e113926/1/Kerins_2008_02Thesis.pdf), 82.

<sup>250</sup> Helene Hesselager O’Barry, "Heart of Darkness," *Earth Island Journal*, 2013, [http://www.earthisland.org/journal/index.php/eij/article/heart\\_of\\_darkness/](http://www.earthisland.org/journal/index.php/eij/article/heart_of_darkness/).

<sup>251</sup> Jóan Pauli Joensen, *Pilot Whaling in the Faroe Islands: History, Ethnography, Symbol*,

include *Langbøkslutan grindahval* (Faroese) (*Globicephala melas* (Latin) or the long-finned pilot whale);<sup>252</sup> *Døgling* (*Hyperoodon ampullatus* or the northern bottlenose whale); *Skjórutan springara* (*Lagenorhynchus acutus* or the Atlantic white-sided dolphin);<sup>253</sup> *Kjafthvítan springara* (*Lagenorhynchus albirostris* or white-beaked dolphins);<sup>254</sup> and *Hvessing* (*Tursiops truncatus* or the common bottlenose dolphin).<sup>255, 256</sup> One *grindadráp* can kill from one whale to an entire pod, which can account for, for example, 430 white-sided dolphins, as were killed at Hvalba in 2013,<sup>257</sup> 445 pilot whales, as were killed in Bøur in 2004, and 666 pilot whales, as were killed in Miðvágur in 1994.<sup>258</sup> So far this year, the number of cetaceans killed by the *grindadráp* is 255. Recent yearly totals included 510 in 2015, 53 in 2014, and 1534 in 2013.<sup>259</sup>

The *grindadráp* is carried out by members of the community (mostly, but not always exclusively, men). When the mammals are sighted,

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Tórshavn: Faro University Press, 2009, [https://books.google.ca/books?id=25dCtUOd\\_ZwC&printsec=frontcover&dq=Pilot+Whaling+in+the+Faro+Islands&hl=en&sa=X&ved=0ahUKEwi1tc\\_dgO\\_PAhUM6WMKHZLFDXEQ6AEIHDA#v=onepage&q=Pilot%20Whaling%20in%20the%20Faro%20Islands&f=false](https://books.google.ca/books?id=25dCtUOd_ZwC&printsec=frontcover&dq=Pilot+Whaling+in+the+Faro+Islands&hl=en&sa=X&ved=0ahUKEwi1tc_dgO_PAhUM6WMKHZLFDXEQ6AEIHDA#v=onepage&q=Pilot%20Whaling%20in%20the%20Faro%20Islands&f=false), 30, 27.

<sup>252</sup> "Convention on the Conservation of European Wildlife and Natural Habitats," *European Treaty Series – No. 104 Bern Convention*, 1979, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680304355>, 4.

<sup>253</sup> *Ibid.*, 4.

<sup>254</sup> *Ibid.*

<sup>255</sup> *Ibid.*

<sup>256</sup> Eyþór Björnsson, Nette Levermann, Kristján Loftsson, Justines Olsen, Kathrine A. Ryeng, Hild Ynnesdal, and Egil O. Øen, "Instruction Manual on Pilot Whaling," *North Atlantic Marine Mammal Commission*, <http://www.nammco.no/assets/Publications/Hunting-Methods-Committee/Manual-on-Pilot-whaling-English-version.pdf>, 11.

<sup>257</sup> "Grindir 2013-," *Heimabeiti*, accessed October 19, 2016. <http://www.heimabeiti.fo/default.asp?menu=400>.

<sup>258</sup> *Ibid.*

<sup>259</sup> *Ibid.*

the *sýslamaður* (sheriff), will, in discussion with local *grindaformenn* (whaling foremen) [who oversee the *grindadráp*], decide whether and where a drive is to take place. In making the decision they assess the prevalent weather conditions and the size of pod. Participation is ad hoc and voluntary—participants involve themselves as and when they wish in whatever tasks they feel they can contribute with.<sup>260</sup>

The drive itself includes throwing stones (*kast*) in the water—either free stones (*leyakast*), or stones attached to ropes (*festakast*), which can be thrown in the water and then re-thrown.

Along with the shouts of the whalers,<sup>261</sup> these push the whales closer to the beaches.<sup>262</sup> In more recent times, the use of the traditional *grindabátur* (boats for the grind) have been replaced by gas-powered boats, and the noise of the boat motors also helps to drive the whales to the beaches. Also employed is the *Hvalvákn*, a spear used to stab the whales at sea.<sup>263</sup> However, not every community uses it and, aboard the boats, its use is limited to the *sýslamaður* and the *grindaformenn*.<sup>264</sup> Once whales find themselves in the shallows, they are secured for slaughter by the *blástrarongul* (blowhole hook). After being taken to the shore, they are cut deeply at the neck with a *grindaknívur* (a traditional Faroese knife, although some foreign blades are now used).<sup>265</sup> More recently, however, a spinal lance has been included in this process.<sup>266</sup> After the spinal lance is inserted, the whales are cut with the

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<sup>260</sup> Singleton, Benedict, “Love-iathan, the meat-whale and hidden people: ordering Faroese pilot whaling,” *Journal of Political Ecology* 23, (2016): 26-48, [http://jpe.library.arizona.edu/volume\\_23/Singleton.pdf](http://jpe.library.arizona.edu/volume_23/Singleton.pdf), 29.

<sup>261</sup> Jóan Pauli Joensen, *Pilot Whaling in the Faroe Islands*, 193.

<sup>262</sup> *Ibid.*, 106-107.

<sup>263</sup> *Ibid.*, 106.

<sup>264</sup> *Ibid.*, 118.

<sup>265</sup> *Ibid.*, 114.

<sup>266</sup> Drew Sutton and Andy Ottaway, *Grindahvalur*, London: Scratch Resistant Productions, 2015, <http://grindahvalur.org/english.html>.

*grindaknívur*, causing them to bleed out.<sup>267</sup> Whales have also been killed at sea in the past by similar methods,<sup>268</sup> however, this practice is now illegal.

In a 2001 description of the *grindadráp*, Kate Sanderson asserts the cultural significance of the hunt,

Pilot whaling goes to the very bone of what it means to be Faroese; it's your food, what you eat, your national diet, your culinary uniqueness. An activity that goes back for generations and generations, it [activism against the Faroese *grindadráp*] was a focus on the very heart, the very core of what it means to be Faroese.<sup>269</sup>

The national identity of the Faroese is heavily invested in the fact that they are a nation within the Kingdom of Denmark, a relationship that Denmark, despite recommendations from the UN Human Rights Committee, has refused to recognize.<sup>270</sup> Pilot whaling, for the Faroese, mitigates the dissolution of Faroese identity within this colonial relationship. It is such an important factor in Denmark's relationship with the Faroe Islands that Denmark, wanting to keep Faroese patronage in the face of the Faroese nationalist movement, codified laws derived from traditional Norse laws on the *grindadráp* in the first half of the twentieth century. More recently, Denmark has also participated in what some have called an awkward postcolonial gesture<sup>271</sup> and that others have called a flagrant violation of international law by defending the *grindadráp* both in politics and with the Danish navy.<sup>272</sup> Russell Fielding, John Davis, and Benedict Singleton describe the *grindadráp* as having "elements of traditional,

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<sup>267</sup> Jóan Pauli Joensen, *Pilot Whaling in the Faroe Islands*, 113.

<sup>268</sup> *Ibid.*, 111-112.

<sup>269</sup> Sanderson cited in Seán Patrick Kerins, "Whaling in the Faroes: *Søtur Er Sjalgivin Biti*," 1.

<sup>270</sup> Rebecca Adler-Nissen, "The Faroe Islands: Independence Dreams, Globalist Separatism and the Europeanization of Postcolonial Home Rule," *Cooperation and Conflict* 49, no. 1 (2014): 55-79, doi: 10.1177/0010836713514150, 62.

<sup>271</sup> *Ibid.*, 56.

<sup>272</sup> Paul Watson, "The Day After the Slaughter."

community-based oversight and top-down colonial exhibitions of power . . . controls that are intended to keep the event as traditional, efficient, humane and sustainable as possible.”<sup>273</sup>

Singleton examines the relationship between the *grindadráp*, culture, food sources, and colonial relationships, stating,

Pilot whale meat is one of a series of non-commercial subsistence activities practiced in the contemporary Faroe Islands; pilot whale meat is readily swapped for other produce within local food exchange networks. Collectively, these practices remain prevalent—the most recent census recorded that a large majority of households across the country accessed free food sources. Historical and social scientific accounts of the Faroe Islands have described the precariousness of living in the North Atlantic and the role *grindadráp* played in ensuring survival (Gaffin 1996; Wylie 1987; Wylie and Margolin 1981). Nowadays, whilst the threat of starvation no longer looms, writers continue to highlight the Faroe Island's precarious position as a minor part of the Kingdom of Denmark with an economy heavily dependent on the fishing industry. *Grindadráp* can arguably be understood as one a series of economic and cultural practices that mitigate the uncertainties and precariousness of life in a land that has changed over the past 60 years and continues to change quickly (cf. Cannady 2014; Gaini 2011, 2013; Kerins 2010).<sup>274</sup>

Whale meat is calculated to account for about 30 percent of local Faroese meat production;<sup>275</sup>

Their meat is often distributed amongst whalers and community members, and the rest is sold.<sup>276</sup> This amount is also further declining because of health concerns.<sup>277</sup> Further, the *grind* may also not always be eaten by individuals in the community even if it is delivered to their houses, for moral reasons. For example, while I was on campaign, I was told by an individual that some accept the food in rural areas because they did not want to be ‘outed’ as anti-

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<sup>273</sup> Russell Fielding, John E. Davis, and Benedict Singleton, "Mutual Aid, Environmental Policy, and the Regulation of Faroese Pilot Whaling," *Human Geography* 8, no. 3 (2015): 37-48, 38.

<sup>274</sup> Benedict Singleton, "Love-iathan, the meat-whale and hidden people: ordering Faroese pilot whaling," 29-30.

<sup>275</sup> Russell Fielding, "Environmental Change as a Threat to the Pilot Whale Hunt in the Faroe Islands," *Polar Research* 29, no. 3 (2010): 430-438, doi: 10.1111/j.1751-8369.2010.00168.x, 435.

<sup>276</sup> Jóan Pauli Joensen, *Pilot Whaling in the Faroe Islands*, 136.

<sup>277</sup> Russell Fielding, "Environmental Change," 434.

*grindadráp*. Despite these sentiments, however, “one random, weighted survey of 528 [Faroese] people (approximately 1% of the population) conducted before SSCS arrived in the islands [for their 2014 campaign] determined 77% of those sampled felt that it was right to continue driving whales,”<sup>278</sup> reflecting high, but not absolute, support for the *grindadráp*.

### 3.2 The *Grindadráp* and Sea Shepherd’s Activism

The *grindadráp* received international attention in the 1980s because of the campaigns of environmental and conservation organizations, campaigns which had included letter writing, sabotage, and economic boycotts.<sup>279</sup> Sea Shepherd became involved in the *grindadráp* in its 1985 campaign, and then again in 1986, 2000, 2011 (Operation Ferocious Isles), 2014 (Operation GrindStop), 2015 (Operation Sleppid Grindini), and 2016 (Operation Bloody Fjords). The 1985 campaign was framed as a success, Sea Shepherd stating,

the Faroese authorities found Sea Shepherd’s presence in the Harbor of Torshavn [sic] to be so provoking that they were willing to cut a deal. In return for Sea Shepherd departing the Faroes, the Fisheries Minister assured that the killing would be halted for the remainder of the grind season. . . . As a result, approximately 500 pilot whales were spared from a gruesome death.<sup>280</sup>

Despite Sea Shepherd’s efforts, however, 2596 cetaceans were still killed that year.<sup>281</sup> The 1986 campaign included the filming of the documentary *Black Harvest* and resulted in

Faroese gunboats pursu[ing] the Sea Shepherd II and engag[ing] in a tear-gas attack in an unsuccessful attempt to seize the ship and arrest the crew. The resulting media coverage, coupled with the fact that a number of pilot whale pods were diverted from the killing bays, brought more pressure to bear on the Faroese authorities.<sup>282</sup>

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<sup>278</sup> *Gallup Føroyar* 2014 as cited Benedict Singleton, “Love-iathan,” 30.

<sup>279</sup> Benedict Singleton, “Love-iathan,” 1.

<sup>280</sup> Sea Shepherd Conservation Society, “Sea Shepherd History Stopping the Grind.”

<sup>281</sup> *Ibid.*

<sup>282</sup> *Ibid.*

Sea Shepherd was also alleged of “tr[ying] to kill” police officers by “shooting rockets” at them.<sup>283</sup> Despite these efforts, the result was that 1676 cetaceans were killed that year in 20 different *grinds*.<sup>284</sup> The 2011 campaign had crews stationed both on land and sea, and Animal Planet covered the campaign in the series *Viking Shores*. Their press release stated that “No pilot whales were killed while Sea Shepherd patrolled the islands.”<sup>285</sup> Although it is true that no pilot whales were killed during Sea Shepherd’s campaign, any effectiveness of the campaign is less a result of effectiveness on behalf of the campaign and more a result of the fact that the timing of the campaign did not occur during that year’s cetacean migrations, as the statistics show that 726 animals had been killed in 9 different *grindir* that year.<sup>286</sup> Nonetheless, Singleton argues that these campaigns may have partially resulted in changes to the governance of the *grindadráp*, including the founding of the Pilot Whaling Association, and the funding and research of the population of pilot whales, and killing methods.<sup>287</sup> The campaigns themselves have resulted in negative public perception of Sea Shepherd and an unwillingness for locals to take part in Sea Shepherd campaigns. Even individuals who do side with Sea Shepherd are ostracized; for example, one Faroese man left the country after speaking out against the *grindadráp* and received a warning not to return to the Faroe Islands from another member of the community.<sup>288</sup>

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<sup>283</sup> “Bad Blood,” *Whale Wars: Viking Shores*, Silver Spring: Animal Planet, 2012, DVD.

<sup>284</sup> “Grindir 1976-2000,” *Heimabeiti*, accessed October 19, 2016,

<http://www.heimabeiti.fo/default.asp?menu=104>.

<sup>285</sup> Sea Shepherd Conservation Society, “Sea Shepherd History Stopping the Grind.”

<sup>286</sup> “Grindir 2007 - 2012,” *Heimabeiti*, accessed October 19, 2016,

<http://www.heimabeiti.fo/default.asp?menu=125>.

<sup>287</sup> Russell Fielding, “Environmental Change,” 433.

<sup>288</sup> Rosie Kunneke as cited in Ross McCall and Oden Roberts, “The Grind of the Faroe Islands.”



### 3.3 Direct Enforcement in Operation GrindStop

On the campaign's website, SSCS described GrindStop in terms of both its enforcement and outreach roles in defense of their "clients" (the cetaceans):<sup>289</sup>

Approximately 500 Sea Shepherd volunteers will be standing in defense of the pilot whales and other dolphins on land and at sea during the peak grind months of June to September, monitoring the 23 grind bays, deterring the dolphins from shore, and taking direct action to intervene against a grind if necessary. . . *Operation GrindStop 2014* will range from conducting investigations and documentation, to providing education and local outreach, and spreading awareness through global media.<sup>290</sup>

The campaign largely relied on two types of volunteers: onshore volunteers (the ground crew) and boat volunteers (the offshore crew)—crews that were managed separately. As a member of the ground crew, our role was to sit at established points, usually near the killing beaches, keeping our binoculars fixed on the sea to see if there were any pilot whales and monitoring harbors for any increase in boat activity.<sup>291</sup> Ground crew volunteers also intervened in the *grindadráp* by running into the water to interfere and stop the *grindadráp*. The offshore crew's role was to patrol the seas and included driving pilot whales out of the coves and interfering in the *grindadráp* when it occurred. The campaign further encompassed online media, videos, commentary, and press conferences.<sup>292</sup>

This section makes the argument that Operation GrindStop primarily used the tactic of direct enforcement. In its mobilization of the tactic, Sea Shepherd constructed the campaign to rely on the same concepts of legality, proportionality, and legitimacy made in Eilstrup-Sangiovanni and Phelps Bondaroff's conceptualizations of direct enforcement. In

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<sup>289</sup> Scott West, "Grindstop 2014 Update," *Sea Shepherd Conservation Society*, April 3, 2014, <http://www.seashepherd.org/news-and-media/2014/04/03/grindstop-2014-update-1570>.

<sup>290</sup> Sea Shepherd Conservation Society "About the Campaign."

<sup>291</sup> I know this from my personal experience, but this is also corroborated by Benedict Singleton, "Love-iathan," 31.

<sup>292</sup> Personal experience, also corroborated by Benedict Singleton, "Love-iathan," 31.

particular, Sea Shepherd established and reinforced a largely Euro-American ideology of legality through the insisting on the illegality perpetrated by the Faroese on the grounds that they were in contravention of EU law,<sup>293</sup> that the pilot whales are a protected species,<sup>294</sup> and that the *grindadráp* constitutes a crime against humanity.<sup>295</sup> Perhaps well-intentioned, Sea Shepherd's legal stance nevertheless uncritically perpetuates colonial and racialized narratives, resulting in an uprising of local resistance to colonialism and racism that undermined SSCS's credibility in the Faroes and undercut the effectiveness of future campaigns.

### **3.3.1 Operation Grindstop and Direct Enforcement: Legality, Legitimacy, Proportionality, and Norm Entrepreneurship**

SSCS's GrindStop campaign appeals to the same Euro-American concept of legality as Eilstrup-Sangiovanni and Phelps Bondaroff's direct enforcement, delegitimizing Faroese national law (and corollary the ancient Norse laws they were founded on), Faroese and Danish enforcement initiatives, and Faroese culture. In Sea Shepherd's description of the 2014 GrindStop campaign, SSCS questions the legality of the *grindadráp*:

The long-finned pilot whale is listed in Appendix II of Convention on Migratory Species (CMS), meaning that the International Union for Conservation of Nature has determined that although the species is not necessarily threatened with extinction, it may become so unless hunting is closely controlled. There is no information on global trends in population, and with a wide range of threats to populations, from military sonar to entanglement in fishing gear, it is believed that populations could face a reduction of 30% over three generations.

Therefore, the Convention on the Conservation of European Wildlife and Natural Habitats classifies the long-finned pilot whale as "strictly protected" under Appendix II.

While the Faroe Islands are not a member of the European Union, they remain a

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<sup>293</sup> Sea Shepherd Conservation Society "About the Campaign."

<sup>294</sup> Sea Shepherd Conservation Society "About the Campaign."

<sup>295</sup> Paul Watson, "A Note to all the Pro-Whale Murdering."

Danish Protectorate. In other words, even though the Faroes are self-governing, Denmark controls the police, defense, foreign policy, and the currency. All trade with EU countries is handled through the Danish foreign ministry. The primary reason for the Faroes abstaining from joining the EU was in an effort to prevent the EU from meddling in their fishing policies. The slaughter of cetaceans is illegal within the European Union.

Denmark fails to abide by their obligations as a co-signer of the Convention on the Conservation of European Wildlife and Natural Habitats (also known as the Berne Convention). It is the position of Sea Shepherd Conservation Society that Denmark fails to fulfill its obligations under the Berne Convention for a number of reasons:

- The Faroe Islanders, who are Danish nationals, deliberately kill protected species that are listed under Appendix II of the Berne Convention.
- While the Faroe Islanders claim that the grind is not a commercial hunt, grind meat is sold in supermarkets, hotels and restaurants, contributing to a trade that is even marketed to other European visitors to the Islands.

The long-finned pilot whale passes through Faroes waters on an annual migration route to feed in Arctic waters. A single grind can completely decimate, and sometimes completely eradicate, an entire pod. This slaughter occurs in, and around, Danish territorial lands.<sup>296</sup>

I include this long quotation because it gives insight into Sea Shepherd's opposition to the *grindadráp* based upon the contents of two international documents, the Convention of Migratory Species (CMS) and the Convention on the Conservation of European Wildlife and Natural Habitats (i.e. the Berne Convention). From Sea Shepherd's point of view, these conventions delegitimize local Faroese laws and surveys by the pro-whaling North Atlantic Marine Mammal Commission (NAMMCO), which estimated the pilot whale population to be 128,093 in 2007<sup>297</sup> and rulings that the effect of the *grindadráp* on cetacean populations is negligible.<sup>298</sup> Singleton argues,

SSCS would describe pilot whales as 'endangered' even if *grindadráp* is not depicted

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<sup>296</sup> Sea Shepherd Conservation Society, "The Cruel Grind," *Sea Shepherd Conservation Society*, Accessed October 21, 2016, <http://www.seashepherd.org/grindstop/about-campaign/the-grind.html>.

<sup>297</sup> Benedict Singleton, "Love-iathan," 29.

<sup>298</sup> Benedict Singleton, "Love-iathan," 29.

as the primary cause of this decline (see Workman 2014). In making such claims, scientific orderings of cetacean species were periodically drawn upon and uncertainties in estimating the number of pilot whales were stressed consistently by SSCS members in interviews and at public events. In doing this, reference was made to the International Union for Conservation of Nature (IUCN) Red List entry for the species, which classifies the long-finned pilot whale as "data deficient" (Taylor *et al.* 2008).<sup>11</sup> Elsewhere, SSCS have accused the Faroese government of "lying when it claims abundance or sustainability in the drive hunt" (Vermeulen 2014c).<sup>299</sup>

SSCS's argument relies on the fact that the Faroe Islands, as a nation within the Kingdom of Denmark, are contractually obligated to uphold the European Union's Common Position on whaling, and that it was the *grindadráp*, not the legal fishing and pollution of the oceans by largely Western countries, that were the largest threat to pilot whales. SSCS's allegation that the Faroe Islands cannot deviate from the European Union's common position on matters such as the *grindadráp* challenges the Maastricht treaty. Declaration No. 25 of the *Treaty on European Union* (Maastricht Treaty) of 1992 states,

The Conference, noting that in exceptional circumstances divergences may arise between the interests of the Union and those of the overseas countries and territories referred to in Article 227(3) and (5)(a) and (b), agrees that the Council will seek to reach a solution which accords with the position of the Union. However, in the event that this proves impossible, the Conference agrees that the Member State concerned may act separately in the interests of the said overseas countries and territories, without this affecting the Community's interests. The Member State concerned will give notice to the Council and the Commission where such a divergence of interests is likely to occur and, when separate action proves unavoidable, make it clear that it is acting in the interests of an overseas territory mentioned above.<sup>300</sup>

Denmark invoked this article in support of whaling activities in the Faroes, attempting to exempt the Faroes from the Berne Convention's prohibition of the slaughter of long-finned

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<sup>299</sup> Benedict Singleton, "Love-iathan," 34.

<sup>300</sup> Belgium, Denmark, Germany, Ireland, Greece, Spain, France, Italy, Luxembourg, Netherlands, Portugal, United Kingdom, "Declaration on the Representation of the Interests of the Overseas Countries and Territories Referred to in Article 227(3) and (5)(A) and (B) of the Treaty Establishing the European Community," *Treaty on European Union*, July 29, 1992, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:11992M/AFI/DCL/25>.

pilot whales, and other species listed under Article II of the IUCN. It is important to note criticisms of the legitimacy and applicability of the Maastricht treaty to the Faroe Islands situation. While Jan Wouters, Sijbren de Jong, Axel Marx, and Philips de Man insist upon the legitimacy of the Maastricht treaty, stating that “Denmark. . . can deviate from the common position under certain conditions on the basis of Declaration 25 annexed to the Final Act of the 1992 Maastricht Treaty,”<sup>301</sup> Sandy Luk raises concerns as to its legitimacy, arguing,

Denmark’s justification which previously exempted it from having to comply with the EU Common Position (see Annex II of Common Position), is no longer valid, as this exemption was based on Declaration no. 25 annexed to the Final Act of the Maastricht Treaty. However, Declaration 25 is not annexed to the Lisbon Treaty, and therefore is no longer valid.<sup>302</sup>

Luk argues that the Lisbon Treaty amends and replaces the Maastricht Treaty, which therefore has no power or authority. By arguing that Denmark cannot deviate from the common position, Sea Shepherd uses this argument to secure their having a “credible claim to be enforcing a law.”<sup>303</sup> By depending on international law and conventions, SSCS’s position aligns with Eilstrup-Sangiovanni and Phelps Bondaroff’s definition of direct enforcement, possibly in an attempt to increase Sea Shepherd’s perceived legitimacy through appeals to legal norms.

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<sup>301</sup> Jan Wouters, Sijbren de Jong, Axel Marx, Philip De Man, “Study for the Assessment of the EU’s Role in International Maritime Organisations,” *Leuven Centre for Global Governance Studies*, April 2009, [https://ghum.kuleuven.be/ggs/publications/research\\_reports/rr\\_international\\_maritime\\_organisations.pdf](https://ghum.kuleuven.be/ggs/publications/research_reports/rr_international_maritime_organisations.pdf).

<sup>302</sup> Sandy Luk, “The Proposed Reform of the International Whaling Convention and EU Voting Rules,” *ClientEarth*, May 20, 2010, <http://www.clientearth.org/reports/100520-marine-protection-eu-voting-and-iwc-f.pdf>.

<sup>303</sup> Teale N. Phelps Bondaroff, “Direct Enforcement on the High Seas,” 173.

In stressing the illegality of Faroese and Danish practices and seeking to boost its legitimacy, SSCS sets up a contrast between its enforcement practices, posited as legitimate and proportionate, and those of the Faroese and Danish agencies. Their appeals to legitimacy and proportionality are in line with those advanced by Eilstrup-Sangiovanni and Phelps Bondaroff and are thus vulnerable to similar critiques. For example, Sea Shepherd spotlights Denmark's compromised position as being both a member of the EU (in which whaling is illegal) and a state that uses its navy to guard the *grindadráp* against Sea Shepherd interference. Sea Shepherd remarks,

The positive side of this encounter is we now have evidence to implicate the Danish government and Sea Shepherd will take this evidence to the European Parliament to demand that action be taken against Denmark for collaboration with an illegal slaughter of whales. No European member of the EU may be involved with whaling, and although the Faroe Islands are not a member of the EU, they receive massive subsidies from the EU through Denmark. The Faroese may be exempt but Denmark is not and now we have the evidence that pilot whale blood is on the hands of Danish sailors and Danish Police. What is rotten in the Faroes is also very much rotten in Denmark.<sup>304</sup>

The juridical thrust of this statement is in its referencing Sea Shepherd as an enforcement agency that not only interferes in the "illegal slaughter" but also gathers evidence against Denmark, further aligning it with enforcement initiatives.

SSCS's indictment of Denmark and the Faroe Islands also meshes with Eilstrup-Sangiovanni and Phelps Bondaroff's concept of proportionality concerning direct enforcement. Sea Shepherd underscores not only the illegitimacy of Danish and Faroese actions, but also Danish and Faroese lack of proportionality when enforcing law. This is

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<sup>304</sup> Sea Shepherd Conservation Society, "Sea Shepherd Crewmembers Arrested for Intervening Against Brutal Faroese Pilot Whale 'Grind' Hunt," *Sea Shepherd Conservation Society*, August 30, 2014, <http://www.seashepherd.org/news-and-media/2014/08/30/sea-shepherd-crewmembers-arrested-for-intervening-against-brutal-faroese-pilot-whale-grind-hunt-1617>.

particularly salient in a press release from their later 2015 campaign, Operation Sleppid Grindini. During the incident, Sea Shepherd filmed police officers violently mistreating Christophe Bondue, ground crew volunteer for Operation Sleppid Grindini, and Rosie Kunneke, ground crew leader for both Operation GrindStop and the later Operation Sleppid Grindini. The two activists were tackled, had their faces pushed into the sand and rocks, and were handcuffed, all for being on the beach during a *grindadráp*.<sup>305</sup> The Sea Shepherd article on the incident reports:

‘It was perfectly clear to me that the Danish Navy was present at Bøur to guard the grindadráp, and that the slaughter would proceed with the full consent of the Danish Navy. How Denmark—an anti-whaling member nation of the European Union, subject to laws prohibiting the slaughter of cetaceans—can attempt to justify its collaboration in this slaughter is incomprehensible’ said Captain Lublink. . .

Sea Shepherd land team volunteer, Kevin Schiltz of Luxembourg, was arrested at the Tórshavn slaughter. A second Sea Shepherd land team volunteer, Sidney Marchand of France, filmed the arrest. However, Faroese police held Sidney and demanded that he delete the footage before they would release him.

A legal representative has been brought-in to act on behalf of the arrested and detained Sea Shepherd volunteers.

The double-slaughter began during the court hearing for another two Sea Shepherd volunteers. Susan Larsen of the United States and Tom Strerath of Germany appeared in court yesterday following their arrest on Monday. During the proceedings, the prosecution informed the court that the pair has been charged with breaching the Faroese Pilot Whaling Act.

This publication criticized the disparity between what Sea Shepherd portrayed as legitimate attempts to enforce law and the Faroese police and the Danish navy’s illegal enforcement initiatives. The illegitimacy of Faroese law and action is further clarified in a later

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<sup>305</sup> Sea Shepherd Conservation Society, "Graphic Footage shows Mass Slaughter of Pilot Whales in the Faroe Islands," *Sea Shepherd Conservation Society*, July 24, 2015, <http://www.seashepherd.org/news-and-media/2015/07/24/graphic-footage-shows-mass-slaughter-of-pilot-whales-in-the-faroe-islands-1724>.

publication addressing the charges laid by police after the incident. The SSCS press release states,

Sea Shepherd Global has also been fined 75,000 kroner (approximately 11,000 USD 10,050 euros) for allegedly orchestrating the incidents that led to the crewmember[s'] arrests, although the organization steadfastly denies any wrongdoing. Authorities in the Faroe Islands will also keep possession of the tender, used by Figarella and Baldo on July 23.

At the trial, Kunneke refused to enter a plea and has since stated, 'I did not enter a plea because I do not recognize the Faroese Pilot Whaling Act as a legitimate law. Denmark is a signatory state of the Bern Convention. Denmark's support of the grindadráp runs against the sentiments of its obligations under this convention, as do our arrests - which were undertaken by police officers who are officially a part of Denmark's National Police Force, and our trial in this court - which is officially a part of the Danish legal system.'

The slaughter of cetaceans is outlawed throughout the European Union, including Denmark, in accordance with Appendix II of the Convention on the Conservation of European Wildlife and Natural Habitats.<sup>306</sup>

These publications further call attention to both the illegitimacy and disproportionality of Denmark and Faroese actions and laws. They also create the impression that SSCS, as an organization, and the volunteers on the campaign, are the more legitimate and proportionate enforcers. The emphasis on the illegitimacy of the *Faroese Pilot Whaling Act* also implies that authority lies in international, rather than national law. Such appeals to proportionality are powerful when considering the brutality of Faroese police against unarmed Sea Shepherd volunteers; However, at the same time, these enforcement mechanisms continue to be codified in Western concepts of legality and proportionality that fail to account for how Sea Shepherd's enforcement of international law is an extension of the colonial project.

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<sup>306</sup> Sea Shepherd Conservation Society, "Sea Shepherd Found Guilty By Danish Court of Defending Pilot Whales," *Sea Shepherd Conservation Society*, August 7, 2015, <http://www.seashepherd.org/news-and-media/2015/08/07/sea-shepherd-found-guilty-by-danish-court-of-defending-pilot-whales-1728>.



SSCS further attempted to establish the legitimacy and proportionality of its claims by attempting to expand existing legal frameworks and norm entrepreneurship. This is in keeping with Phelps Bondaroff's concept that direct enforcement involves a form of norm entrepreneurship that "increase[s] the compliance pull of that law by contributing to the practices of legality surrounding it."<sup>307</sup> For example, SSCS's campaign invested in norm entrepreneurship surrounding the legal legitimacy of the *grindadráp* by framing it as a "crime against humanity":

Sea Shepherd does not and has never opposed people simply on the basis of their nationality, ethnicity, race or beliefs. We oppose the killing of marine wildlife, specifically on legal and ethical grounds. It is our position that killing whales and dolphins is akin to murder. We believe it to be a highly unethical crime against nature and humanity. That is the sole reason we are in the Faroe Islands.<sup>308</sup>

The murder of the pilot whales in the Faroes, like the murder of the dolphins in Taiji, is a crime against nature and a crime against cetaceans and humanity. It is a savage, barbaric, horrifically cruel and bloody atrocity and it must not be allowed to continue in a civilized world.<sup>309</sup>

Sea Shepherd's use of the "crimes against" framework (in SSCS's depiction of the Faroese *grindadráp* as a crime against humanity, cetaceans, and nature) further establishes Sea Shepherd's actions as enforcement mechanisms. This tactic is a legal and rhetorical strategy that parallels SSCS' intervention in the Faroese hunt to interventions into atrocities involving humans. First used in the Nuremberg trials, crimes against humanity are defined as

murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the

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<sup>307</sup> Teale N. Phelps Bondaroff, "Direct Enforcement on the High Seas," 184.

<sup>308</sup> Paul Watson, "Playing Fair with the Faroese," *Sea Shepherd Conservation Society*, August 27, 2016, <http://www.seashepherd.org/commentary-and-editorials/2014/08/27/playing-fair-with-the-faroese-665>.

<sup>309</sup> Paul Watson, "A Note to all the Pro-Whale Murdering."

country where perpetrated.<sup>310</sup>

Sea Shepherd’s invocation of the crimes against cetaceans and crimes against nature implies that “crimes against” can be extended to acts of “murder, extermination, enslavement, deportation, and other inhumane acts committed against”<sup>311</sup> nature or any *cetacean* population. This expansionist framework attempts to capitalize on what Adam Jones defines as the *modus operandi* of opponents of crimes against humanity: to establish a “set of *prohibition regimes*: attempts to entrench norms in international politics and society that proscribe a given practice.”<sup>312</sup> By indicting others for crimes against humanity, cetaceans, and nature, SSCS takes part in the norm grafting approach, and the anthropocentric practices of legality that govern what is considered humane, inhumane, and murder. This approach contributes to interpretations of their practices and laws as systematic forms of oppression. While norm grafting systems can be productive, this approach does exist within a particular understanding of human and nonhuman suffering—a subject that will be addressed in the next section.

### **3.4 A Critique of the Use of Direct Enforcement on Operation GrindStop**

In contrast to Eilstrup-Sangiovanni and Phelps Bondaroff’s hypothesis that direct enforcement is a promising and comparatively successful tactic for changing traditional

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<sup>310</sup> “Jurisdiction and General Principles,” *Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal*, August 8, 1945, <https://ihl-databases.icrc.org/ihl/WebART/350-530014?OpenDocument>.

<sup>311</sup> “Jurisdiction and General Principles.” *Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal*. August 8, 1945. <https://ihl-databases.icrc.org/ihl/WebART/350-530014?OpenDocument>.

<sup>312</sup> Adam Jones, *Crimes Against Humanity: A Beginner's Guide* (Oxford: Oneworld, 2008), i.

whaling nations<sup>313</sup> and Sea Shepherd's claims that its Faroe Islands campaigns have been effective, anti-*grindadráp* activists, whalers, academics, doctors, and locals alike such as Elin Brimheim Heinesen,<sup>314</sup> Rúni Nielsen,<sup>315</sup> Megan Jerrard,<sup>316</sup> Pál Weihe,<sup>317</sup> Katrín Petersen,<sup>318</sup> Benedict E. Singleton,<sup>319</sup> Kaj Leo Johannesen,<sup>320</sup> Jákup,<sup>321</sup> Jóhan,<sup>322</sup> Drew Robert Winter,<sup>323</sup> to name a few, have argued that Sea Shepherd's campaign in the Faroe Islands has been ineffective *at best*, and counterproductive, at worst. Phelps Bondaroff and Danita Catherine Burke point out that Sea Shepherd has a history of running counterproductive land-based campaigns that lose legitimacy in the eyes of grassroots activists, who are the ones experiencing negative long-term consequences.<sup>324</sup> In keeping with these assessments and the above-mentioned history, Operation Grindstop was largely ineffective. This section argues that the campaign's lack of effectiveness in the Faroe Islands indicates that, at least within the context of the Faroe Islands, campaigns cannot rely on direct enforcement to be effective or sustainable. Further, it indicates the complexity offered by this onshore campaign (in contrast to the offshore campaigns Phelps Bondaroff and Eilstrup Sangiovanni used to define

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<sup>313</sup> Mette Eilstrup-Sangiovanni and Teale N. Phelps Bondaroff, "From Advocacy to Confrontation," 356.

<sup>314</sup> Elin Brimheim Heinesen, "Cultural Clashes make Sea Shepherd Campaign Counterproductive," *The Arctic Journal*, August 21, 2014, <http://arcticjournal.com/opinion/914/cultural-clashes-make-sea-shepherd-campaign-counterproductive>.

<sup>315</sup> Hans P. Roth, "Projekt-Bericht Färøer Juni-Juli 2012," 9.

<sup>316</sup> Megan Jerrard, "Whale Hunting in the Faroe Islands Has Received a Bad Reputation. But here's what Social Media is Getting Wrong."

<sup>317</sup> Sasha Abdolmajid, "Faroe Islands."

<sup>318</sup> Katrin Petersen as cited in Miranda Metheny, "My Life in Norðragøta," 7.

<sup>319</sup> Benedict Singleton, "Love-iathan," 42-44.

<sup>320</sup> "Whalers Versus Activists," *Chevy.to.my.levi*.

<sup>321</sup> Jákup, "Thoughts of a Former Whale Hunter in the Faroe Islands."

<sup>322</sup> Sasha Abdoulmajid, "Op Ed: From the Faroese Perspective."

<sup>323</sup> Drew Robert Winter, "Whale Wars with Market Forces," 8.

<sup>324</sup> Teale N. Phelps Bondaroff and Danita Catherine Burke, "Bridging Troubled Waters," 10.

direct enforcement), exemplifying how the “us-and-them” or “good boat vs. bad boat” mentality can be counterproductive for traditional whaling nations. This section argues that Sea Shepherd’s use of the direct enforcement tactic in their Faroe Islands campaigns was ineffective owing to several factors: it alienated and ignored local activists, failed to engage community members, and used ethnocentric and colonial language that further alienated Faroese people. Despite using direct enforcement and appeals to international law to increase their credibility, Sea Shepherd’s failure to work with local activist communities in the anti-*grindadráp* campaign, as in the anti-sealing campaigns, resulted in reduced grassroots support and legitimacy, and impedes future campaign potential. Sea Shepherd’s actions have harmed, possibly irreparably, future campaigns for collaboration between Sea Shepherd and the Faroese, not to mention other transnational organizations. In fact, failure to examine the ways in which these campaigns perpetuate or are complicit in oppressions, including racism, colonialism, and anthropocentrism, can only mean the further loss of lives of the marine animals that Sea Shepherd has sworn to protect.

### **3.4.1 Legal Framework**

The application of the legal, rhetorical, and normative designation of crimes against humanity<sup>325</sup> and genocide<sup>326</sup> to the case of whale slaughter also reflects a wider tendency in mainstream Western animal advocacy frameworks: to (often uncritically and insensitively) capitalize on human suffering. As Marjorie Spiegel notes, parallel-oppression analyses have

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<sup>325</sup> Paul Watson, "A Note to all the Pro-Whale Murdering."

<sup>326</sup> Sea Shepherd Conservation Society, "Hollywood Stars Demand Costco Stop its Purchase and Sale of Faroe Islands' Salmon in Response to Horrific Slaughter of Pilot Whales," *Sea Shepherd Conservation Society*, July 7, 2016, <http://www.seashepherd.org/news-and-media/2016/07/07/hollywood-stars-demand-costco-stop-its-purchase-and-sale-of-faroe-islands-salmon-1826>.

conventionally “impl[ied] that the oppressions experienced by [for example] Blacks and animals have taken identical forms—but, as divergent as the cruelties and the supporting systems of oppression may be, there are commonalities between them. They share the same basic relationship—that between oppressor and oppressed.”<sup>327</sup> While some such analyses show the diverse ways that oppression manifests,<sup>328</sup> many other lack nuance, or are insensitive, exploitative,<sup>329</sup> “reductive and appropriative, with the result that, according to some, they do more harm than good overall,”<sup>330</sup> and “trigger trauma and deep emotional pain.”<sup>331</sup> Breeze Harper argues that such reductionist and appropriative uses of others’ oppression has the potential to “persuade people to reject [connections between shared oppressions] and restrict their compassion as a result.”<sup>332</sup> Calling the tactic a “crime against humanity,” especially when such crimes have been associated within the Holocaust and other atrocities, draws attention to intersections between these shared oppressions, at the same time as they collapse meanings and sustain oppressions. This is particularly problematic in the case of Sea Shepherd, whose use of the term ignores its original use or application. Without an attempt to analyze the ways that diverse oppressions have

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<sup>327</sup> Marjorie Spiegel as cited in A. Breeze Harper, *Sistah Vegan: Black Female Vegans Speak on Food, Identity, Health, and Society*, (New York: Lantern Books, 2010), xiv.

<sup>328</sup> Harper speaks about how Spiegel and Patterson have sensitive explorations into shared oppressions, while campaigns like the PETA exhibit, which compares the Holocaust to factory farming, exploits these tragedies, pulls attention away from those experiencing trauma, and elicits trauma. A. Breeze Harper, *Sistah Vegan: Black Female Vegans Speak on Food, Identity, Health, and Society*, (New York: Lantern Books, 2010), xiv.

<sup>329</sup> *Ibid.*, xiv.

<sup>330</sup> Jeff Sebo, "Multi-Issue Food Activism," In *The Oxford Handbook of Food Ethics*, Oxford: Oxford Handbooks, Forthcoming, <https://jeffsebotnet.files.wordpress.com/2016/08/multi-issue-food-activism-august-2016.pdf>, 23.

<sup>331</sup> A. Breeze Harper, *Sistah Vegan*, xiv.

<sup>332</sup> Jeff Sebo, "Multi-Issue Food Activism," 24.

manifested in the context of crimes against humanity or explain diverse ways that supporting systems of oppression manifest, Sea Shepherd struggles to go beyond reduction and appropriation—tokenizing the phrase rather than trying to elicit a nuanced and constructive dialogue on the similar ways oppression functions to marginalize both humans and nonhumans.

### 3.4.2 Assessments of Operation GrindStop as Ineffective and Counterproductive

Previous activism by international non-governmental organizations against the *grindadráp* has not necessarily been effective at saving whales' lives. Fielding explains,

during the late 1980s and early 1990s, it seemed to some Faroese that the international protests and threatened boycott might require the cessation of the *grindadráp*. In August 2005, Ólavur Sjurðarberg, president of Grindamannafelagið, remarked that the protest was the biggest threat to the continuance of the *grindadráp*. This opinion was echoed as recently as March 2008 by Rolf Guttesen, a Faroese geographer at the University of Copenhagen (pers. comm.). As a direct result of the protest, the Grindamannafelagið was created and led efforts to implement changes that improved killing methods and further ensured sustainability. In this regard, the protest had a positive effect in the Faroe Islands, and Faroese writers have credited the anti-whaling organizations with instigating these changes (e.g., Guttesen 1996). . . . [However, the] proposed boycotts [have not] had any noticeable impact on the Faroese economy. It seems then that the protest has not ended—or even lessened—the occurrence of the *grindadráp* in the Faroe Islands. Rather, its effect was to call attention to some areas in which the *grindadráp* could be improved, and to instigate the necessary improvements.<sup>333</sup>

This history reveals that the GrindStop campaign exists within a series of other campaigns that have, largely, been ineffective at saving animals' lives or changing Faroese opinion.

Although the organization's actions may have increased international attention to the *grindadráp*, pressured governing bodies to increase the number of policies, guidelines, and laws that oversee the *grindadráp*, and ostensibly saved hundreds of cetacean's lives through direct intervention, many have labelled their campaigns as ineffective. For instance,

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<sup>333</sup> Russell Fielding, "Environmental Change," 433.

journalist Meg Jerrard argues that “Sea Shepherd[’s] presence in the Faroe Islands is overly aggressive and highly counterproductive.”<sup>334</sup> According to Jerrard, Sea Shepherd’s campaigns have

merely strengthen[ed] the desire of diehard Faroese nationalists to hold on to their cultural heritage. . . Aggressive and accusatory statements plague social media: “I wish a tsunami would sweep over the islands”; “Blood thirsty murderers, the Faroese are barbarians”; “I hope they all die from eating toxic meat”; “Dirty sons of bitches. This disgusting island should rot in hell.”<sup>335</sup>

In addition to Jerrard’s evaluation of SSCS’ campaigns as inciting aggressive and accusatory statements that compounded the ineffectiveness of the campaign, Pál Weihe, chief physician at the Faroese Department of Occupational and Public Health, argues that SSCS’ “actions provoke a kind of patriotic counter reflex on the islands to hold on to the tradition—and reinforces the notion that the pilot whale hunt is simply part of the national identity.”<sup>336</sup>

Weihe’s assertion that the campaign was counterproductive is shared by many whalers’ assessments of GrindStop 2014. Singleton reports,

one Faroese anti-whaler made the point that the main beneficiaries of the increased attention paid to *grindadráp* were the whalers who gained new members, new regulations and more political focus. One whaler agreed, stating that he had thought that his would be the last generation pilot whaling, but now his son was so angry at SSCS that he would also participate. Groups of people pulling together around whaling against outside interference have also been recorded in Iceland, Norway and the US.<sup>337</sup>

This backlash against the organization meant the death of more whales and the revival of

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<sup>334</sup> Megan Jerrard, “Understanding the Faroe Islands Grindadrap,” *Mapping Megan* (blog), December 8, 2014, <https://www.mappingmegan.com/?s=understanding&x=0&y=0>.

<sup>335</sup> Megan Jerrard, “Eco News: Faroe Islands Whale Hunting- Culture Vs. Conservation,” *Green Global Travel*, December 7, 2014, <http://greenglobaltravel.com/2014/12/07/faroe-islands-whale-hunting-culture-vs-conservation/>.

<sup>336</sup> Pál Weihe cited in Sasha Abdolmajid, “Faroe Islands — Foreign Activists Provoke Patriotic Reaction.”

<sup>337</sup> Benedict Singleton, “Love-iathan,” 43.

whaling consumption for some people. Katrin Petersen reflects,

*Ja, eg var har. Og hesaferð fekk eg grindapart, eisini. Eg havi annars verið nokkso strict ikki-grindaetari í nógv ár. Tí eg hugsji um dálkingina. Havi hugsað, at “so leingi eg eri í aldri at fáa børn...” Men veitst tú—hesi SS-fólkini provokera meg! Tey skulu so ikki gera av, um eg eti grind ella ikki. Og eg eri IKKI ímóti drápinum, eg havi bara ikki hug at eta kyksilvur.... So eg át eina grindamáltíð fyrri fyrstu ferð í áravís—og mamma mia, tað smakkaði væl! Eg haldi, drápið gekk væl. Og eisini arbeiðið hjá lögreluni gekk væl. Men - eg hugsji, at tað kann ikki blíva við, at vit hava 3 tyrlur og 20 politimenn við í grind! So—tað gekk fínt, men eg stúri eitt sindur fyrri næstu ferð, næsta ár, og tey næstu 5 árinu...<sup>338</sup>*

Yes, I was there (at the Grind). And this time I also took some whale meat as well. I have otherwise been a pretty strict non-Grind-eater for many years. Because I was thinking of the contamination (of mercury). I thought that, “as long as I am of childbearing age...” But you know — these Sea Shepherd people provoke me! They shouldn’t be the ones to decide, whether we eat grind or not. And I am NOT against the killing, I have only been concerned about eating mercury... So, I ate a meal of pilot whale for the first time in years — and mamma mia, it was delicious! I think that the grindadráp went well. And also the work of the police went well. But — I think, it can’t go on like this, that we have three helicopters and 20 policemen there at the grind! So — it went fine, but I’m a little bit worried about the next time, the next year, and the next 5 years...<sup>339</sup>

Similar to Katrin Petersen’s response, Jákup, a former whaler, confides, “[t]o be honest, the more dirty campaigns are run, the more I want to go back to whaling sometimes.”<sup>340</sup> These remarks suggest that Sea Shepherd’s framing polarized the debate and brings about unintended consequences that further endanger the animals they are working to save. Faroese activists also pointed to the reversal of a downward trend in the pro-*grindadráp* whaling sentiments, resurgent after Sea Shepherd’s 2011 campaign.<sup>341</sup> Further, Drew Robert Winter implies that Sea Shepherd’s 2014 campaign in the Faroe Islands was so ineffective that it had larger implications for all future NGOs within the Faroe Islands:

More broadly than Sea Shepherd and its campaign in the Faroe Islands, though, this

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<sup>338</sup> Katrin Petersen as cited in Miranda Metheny, “My Life in Norðragøta,” 7.

<sup>339</sup> Katrin Petersen as cited in Miranda Metheny, “My Life in Norðragøta,” 7.

<sup>340</sup> Jákup, “Thoughts of a Former Whale Hunter.”

<sup>341</sup> Benedict Singleton, “Love-iathan,” 43.



deadlock has implications for any NGO attempting to resolve international issues through universalizing logics that attempt to erase local difference rather than interact with it, and perhaps create something unique, and imperfect, but far more effective and longstanding.<sup>342</sup>

The next section looks at how Sea Shepherd's tactic of direct enforcement resulted in the above assessments of the campaign as counterproductive and ineffective in both the short and long term.

### **3.4.3 The Legitimacy of Operation GrindStop's Claims**

As outlined earlier, Sea Shepherd's mobilization of direct enforcement capitalized on an appeal to the legitimacy of its claims and enforcement practices in contrast to the ostensible illegitimacy of Faroese and Danish legal claim and enforcement practices. As established in the earlier section, SSCS' campaign emphasized that their campaign was effective, boasting large numbers of pilot whales' lives saved, despite reports of a reported backlash against Sea Shepherd. One Faroese activist following the campaign delegitimized SSCS's claims to effectiveness and was subsequently blocked from commenting:

The reason no whales have been killed so far has little to do with SS. The truth is few whales have been spotted in Faroese waters this Summer. One pod was allowed to swim by - by the local Faroese people. Another pod was accompanied out to sea by SS. 1-1, end of story! SS cannot claim any credit for saving whales that have not appeared on the horizon. Funnily enough, I pointed this out on the Operation Grindstop FB page, and my comment was removed... Since then I have been unable to comment.<sup>343</sup>

The same sentiment is shared by a previous whaler Jákup, who states,

I'm often stunned by the comments that we get from people in other nations who attack us because of whaling. Comments like "I wish a tsunami would sweep over those islands," "I hope they all die from eating toxic meat," "Nuke those bastards" and "Karma will get you" are very common. . . The comments about nukes and tsunamis are always accepted on the Facebook pages of Sea Shepherd, but if a person is trying to point out the half-truths or direct lies on those pages, their comments are

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<sup>342</sup> Drew Robert Winter, "Whale Wars with Market Forces," 8.

<sup>343</sup> Earthling 2, "Sea Shepherd: Operation Grindstop," *Vegetarkontakt.Dk* (blog), July 24, 2014 (15:48), <http://vegetarkontakt.dk/?-sea-shepherd-operation-grindstop=156237>.

simply deleted and they are blocked. This of course brings me to the conclusion that they are not trying to tell people the truth, they are simply making people hate, nothing else. They need the hatred so that people will keep on wanting to fight us because this raises money. . . There are good people here who are fighting the grind, Faroese people. Get to know them, learn the facts, the real facts, and support them. Find out how to help, listen and understand what you're dealing with before taking action. . . Name calling and hatred has never saved a whale—and that has been tried since the 80's with no success at all. Change the tactic . . . If you want to stop us killing whales, stop making us your enemies.<sup>344</sup>

These comments exemplify the ways that SSCS maintained an air of legitimacy and effectiveness—by largely eliminating valid criticism from Faroese activists from their Facebook page. Member of the famous band Tyr, Heri Joensen implies that, in their demonization of the Faroese people and their unwillingness to even address Faroese law in their indictment of the *grindadráp*, Sea Shepherd has exploited not only its volunteers but also its donors—distracting them from lending their support to more effective methods of advocating on behalf of the pilot whales.<sup>345</sup> Singleton argues that the Faroese respondents to his interviews on the SSCS 2014 campaign

described SSCS as dishonest; knowingly misrepresenting *grindadráp*. The reason for this was often felt to be to elicit more donations to maintain their organization and the lifestyles of SSCS' leadership. The confrontations SSCS' strategies engender were seen as a part of fundraising efforts (Lindenskov 2014b, 2014f, 2014h). . . [T]he unwillingness of other SSCS members to apologize or correct inaccuracies within Watson's writings was viewed in a poor light (Workman 2014). SSCS were viewed as disrespectful of Faroese public opinion, unwilling to engage in discussion and were seen to be actively shutting down those attempting to air pro-whaling views on SSCS social media (Workman 2014).<sup>346</sup>

These responses hypothesize that SSCS' campaign was directed at establishing funding from

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<sup>344</sup> Jákup, "Thoughts of a Former Whale Hunter."

<sup>345</sup> Joensen argues, "Sea Shepherd Conservation Society consistently misrepresents the issue and demonizes the Faroese People. . . They exploit people who actually do care . . . This kind of whaling is not illegal in the Faroe Islands." Heri Joensen, "Grind (with Subs)," YouTube video, 7:55, Commentary on the Grindadráp, posted by Heri Joensen, August 30, 2016, <https://www.youtube.com/watch?v=QIPgA-YXLEU>.

<sup>346</sup> Benedict Singleton, "Love-iathan," 40.

international sources through building credibility using appeals to largely Euro-American audiences rather than ensuring that its campaign was credible in the Faroe Islands, a finding corroborated by Singleton's conclusions.<sup>347</sup> The perceived illegitimacy and lack of openness to criticism of SSCS discussed above resulted in many Faroese people to disavow anti-*grindadráp* activism as a whole in the Faroe Islands.

#### **3.4.4 Operation GrindStop and Local Activism in the Faroe Islands**

SSCS's direct enforcement campaigns in the Faroe Islands pulled focus away from the work of local activists and delegitimized their work. Sea Shepherd's failure to reach out to and work with local activists was compounded by Sea Shepherd's polarizing claims that largely portray all Faroese as pro-*grindadráp*. Jerrard argues that SSCS actions of breaking Faroese law "[o]vershadow[ed] and frustrate[ed] the efforts of peaceful organizations who are protesting on the islands with valid points and respectful methods."<sup>348</sup> Corroborating Jerrard's assessment, Weihe argues that "[t]he attention that SSCS gets distracts from my work."<sup>349</sup> Weihe further sustains that, although he is well known for advocating on behalf of pilot whales from a health perspective, SSCS has never contributed anything to his recommendations. He further notes that Sea Shepherd never contacted him.<sup>350</sup> The view that SSCS's campaign was detrimental to local activists was shared by another international NGO known for using the direct enforcement tactic, EarthRace, which has established a locally-run branch in the Faroe Islands:

a Faroese member of Earthrace asserted that considerable effort had been made in previous years to create a space where *grindadráp* and the issue of polluted whale meat could be discussed and the benefits and problems weighed. She felt that SSCS,

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<sup>347</sup> Benedict Singleton, "Love-iathan," 42.

<sup>348</sup> Megan Jerrard, "Whale Hunting in the Faroe Islands."

<sup>349</sup> Pál Weihe cited in Sasha Abdoulmajid, "Op Ed."

<sup>350</sup> Pál Weihe cited in Sasha Abdoulmajid, "Op Ed."

by making whaling an issue of Faroese identity, are closing up that space and making it harder for them to gain ground in the public discourse.<sup>351</sup>

Sea Shepherd's alienation and ignorance of Faroese activists reinforces the "us-and-them" mentality—a mentality that appeals to effectiveness, legitimacy, and legality, appeals that have been calibrated to target Euro-American donors, rather than Faroese people.

### **3.4.5 The "Civilizing' Mission" of Sea Shepherd's Approach to Direct Enforcement in the Faroes**

The above-cited ineffectiveness of the campaign, unwillingness to consult with local stakeholders in the Faroe Islands, and failures to argue for the legitimacy of its legal claims or claims to effectiveness by acknowledging Faroese opinion or law are reminiscent of a colonialism's so-called "'civilizing' mission[s]."<sup>352</sup> Philip Armstrong argues that civilizing missions were the "passification (and passivation)" of "savage cultures" and were "fundamental to the practice of European Enlightenment colonialism,"<sup>353</sup> ideologies that "owe simultaneous debts to the colonial and animal worlds."<sup>354</sup> Sea Shepherd used appeals to Euro-American notions of what it means to be a civilized nation to gain support and donations from Euro-Americans at the expense of animals. These appeals construct the ideal of a civilized nation, which itself is reliant on arguments of legality and legitimacy with almost exclusive reference to European and international law and pitting the international community against all Faroese without any reference to crucial Faroese activism. SSCS's enforcement practices, the laws they depend on to justify its arguments, and Sea Shepherd's publications and press conferences thus became a civilizing mission.

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<sup>351</sup> Benedict Singleton, "Love-iathan," 7.

<sup>352</sup> Philip Armstrong, "The Postcolonial Animal," 414.

<sup>353</sup> *Ibid.*, 414

<sup>354</sup> *Ibid.*, 414

This civilizing mission is inherently anthropocentric, racialized, and colonial. It directly affected the way that Sea Shepherd's organizing was perceived, and negatively affected future campaigns in the Faroe Islands, resulting in an overall failure to save whales' lives.

Sea Shepherd's civilizing mission defines Sea Shepherd's Faroe Islands campaigns; although, Sea Shepherd did attempt to make some changes to respect Faroese cultural identity. In Operation GrindStop, for example, Sea Shepherd worked to extend relationships with the Faroese by changing a campaign symbol. The original campaign logo superimposed a Sea Shepherd skull and two dolphins on the Faroese flag, altering an important symbol of Faroese autonomy and cultural identity. The logo was considered offensive and alienated many Faroese from the start. Sea Shepherd responded to criticisms of this symbol, stating

Sea Shepherd does not and has never opposed people simply on the basis of their nationality, ethnicity, race or beliefs. We oppose the killing of marine wildlife, specifically on legal and ethical grounds. It is our position that killing whales and dolphins is akin to murder. We believe it to be a highly unethical crime against nature and humanity. That is the sole reason we are in the Faroe Islands. When some Faroese people who opposed the killing came to us with a complaint that our logo incorporating the Faroese flag was something they found offensive, we responded by immediately redesigning the logo to remove the Faroese flag. We did not argue with them. We respected their concerns. We understand that the entire issue of the *grindadráp* is highly emotional and that the support of the *grindadráp* has its roots deep in Faroese culture. However we have no choice but to oppose it because of our dedication to our position of opposing the killing of all cetaceans worldwide by anyone, anywhere.<sup>355</sup>

Despite what may be an olive branch and a recognition of the importance of Faroese culture and autonomy, Sea Shepherd diverts questions away from whether the way they are going about their campaign reinforces racism. In what was supposed to be a retraction of their

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<sup>355</sup> Paul Watson, "Playing Fair with the Faroese."

campaign logo as a sign of respect to the Faroese, Watson continues,

And as for the arguments about numbers, questions about the humaneness of the slaughter, and cultural rights, etc. Well none of these are really relevant to Sea Shepherd. . . [A]s for culture, well cultures need to adapt or die and any cultural rite or ritual that is dependent upon cruelty and death should be tossed into the dustbin of humanity's very shameful history.<sup>356</sup>

An extension of this argument would be that any cultural rite that includes the death of animals should be thrown into the dustbin—and, implicitly, thrown into the dustbin by SSCS. This would include, for example, throwing into the dustbin the Musgamagw Dzawada'enuxw—whose advocacy efforts (including dealing eviction notices to fish farms) to save the wild salmon that they eat. Sea Shepherd's above claim rings out hypocritically as these same advocacy efforts are being used by Sea Shepherd as part of SSCS' campaign to shut down salmon farms in Operation Virus Hunter. Further, in maintaining that Sea Shepherd is opposed to whaling on the basis that it is illegal and unethical regardless of culture, and that “cultures need to adapt or die,” circumvents the question of whether Sea Shepherd's actions are ethical. These sentiments disregard the fact that Sea Shepherd could in any way be perpetuating colonialism in their activism. In a rebuttal to a remark that their actions in the Faroes were neo-colonial, Paul Watson stated,

Colonialism means to occupy territory and to control the populace. . . Sea Shepherd volunteers come from all over the world including Denmark and the Faroes. . . This word Neo-colonialism is something a P.R. nerd must have dreamed up. It really is a meaningless catch-word. . . This has something to do with boundaries and borders,

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<sup>356</sup> Paul Watson, “Playing Fair with the Faroese.”

culture and nationality. It is about protecting life and the diversity of life in the ocean.<sup>357</sup>

The statement itself participates in post-racism through both tokenizing Faroese and Danish volunteers and presenting a misinformed and over-simplified definition of colonialism, which fails to account for the structural and covert mechanisms in which colonialism continues to exist in Western advocacy. Furthermore, this rejection of neocolonialism devalues and debases the words and experiences not only of Faroese individuals, who have been colonized by Denmark, but also of the Indigenous persons that Sea Shepherd, as an organization more broadly, claims to be an ally to.

In this case, the change of the campaign logo is less an attempt on behalf of SSCS to be respectful of Faroese activists and more a red herring that distracts from the most concerning effects of SSCS' work in the Faroe Islands.

With specific reference to whaling and conservation advocacy and law, Brian T. Hodges claims that "Pro-whaling states commonly find themselves subject to political actions that, despite the merits of their requests, are not treated reasonably" by governments or NGOs.<sup>358</sup> In fact, international bodies and nations (such as the United States) "have repeatedly been accused of hypocritical and culturally imperialistic practices" regarding their uncritical perpetuation of axiomatics of imperialism that undercut the neoliberal myth of progress that they advance.

In a similar vein, throughout the campaign, Sea Shepherd called the Faroe Islands the

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<sup>357</sup> Paul Watson, "The Nordic Sheep Look Up," *Captain Paul Watson* (Facebook page), August 7, 2014, <https://www.facebook.com/captpaulwatson/posts/10152553316605932:0>.

<sup>358</sup> Brian Trevor Hodges, "The Cracking Facade of the International Whaling Commission as an Institution of International Law: Norwegian Small-Type Whaling and the Aboriginal Subsistence Exemption," *Journal of Environmental Law and Litigation* 15, no. 2 (2000): 295-328.

“Ferocious Islands,”<sup>359</sup> and Captain Paul Watson, the founder of Sea Shepherd, referred to the Faroese as “psychopaths”<sup>360</sup> and “serial killing thugs.”<sup>361</sup> These words are part of a larger colonial and racial rhetoric that paints other nations as uncivilized and savage in ways that are also ableist and racist. Lydia Brown argues that the word “psychopath” is “profoundly ableist and sanist, and rooted in a complex, interlocking web of structural racism, ageism, and sexism.”<sup>362</sup> Brown asserts that the word “psychopath” belongs to a larger language of pathology that is used as a “tool for criminalizing poverty, blackness and brownness, and disability,”<sup>363</sup> and reinforces “existing structural oppressions like racism, classism, sexism, heterosexism, binarism, cissexism, and ableism.”<sup>364</sup> Breeze Harper contends that the use of the word “thugs” reinforces “pernicious stereotypes about black people that make it easier to accept violence against them.”<sup>365</sup> Further, it capitalizes on a donor base that has used the word “thug” to demonize young Black men living in marginalized, low-income neighbourhoods. This racial dimension is further emphasized in Singleton’s interviews with campaign members: “During Grindstop 2014, one SSCS respondent compared *grindadráp* to apartheid . . . while another volunteer saw SSCS as fighting a moral crusade similar to Martin

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<sup>359</sup> Paul Watson. "A Cruel and Remorseless Slaughter Today."

<sup>360</sup> Paul Watson, "The Despicably Gory Japanese Faroese Bloody Cultural Exchange Program," *Captain Paul Watson* (Facebook page), August 20, 2014, <https://www.facebook.com/captpaulwatson/posts/10152584449585932>.

<sup>361</sup> Ibid.

<sup>362</sup> Lydia Brown, “Why the Term ‘Psychopath’ is Racist and Ableist,” *Black Girl Dangerous*, January 22, 2014, <http://www.blackgirldangerous.org/2014/01/racist-ableist-use-term-psychopath/>.

<sup>363</sup> Ibid.

<sup>364</sup> Ibid.

<sup>365</sup> Julie Zeilinger, "The Surprising Way these Activists are using Veganism to Fight White Supremacy," *Mic*, November 9, 2015, <https://mic.com/articles/127821/the-surprising-way-these-activists-are-using-veganism-to-fight-white-supremacy#.EhjdQisXP>.



Luther King's civil rights movement.”<sup>366</sup> Syl Ko argues that, while connections made between forms of oppression can help to note the common source of oppression, arguments, such as the one above, are “over-simplistic characterizations of the ways in which these struggles and these wounded subjectivities relate to one another.”<sup>367</sup> Criticisms of this analogy are similar to Aph Ko’s criticism of Paul Watson’s statement: “if you want to know where you would have stood on slavery before the civil war, don’t look at where you stand on slavery today. Look at where you stand on animal rights.”<sup>368</sup> Ko argues,

[c]omparing and contrasting the *literal/physical* violations these subjects experience misses the conceptual boat because they have a common oppressor. They are not being oppressed because they are all ‘like’ each other. They are being oppressed because they have been labelled as ‘less-than-human’ where *human* is defined as the superior and ideal white species. To keep ‘comparing’ these literal/physical oppressions to one another to show how they are the same is tautological.<sup>369</sup>

Being part of a movement using the term “thugs” yet failing to meaningfully work with local activists while comparing that movement to the struggles of apartheid or Martin Luther King’s civil rights movement fails to get at the root of oppressive behavior: the human/subhuman divide. As Ko argues, such actions simply “risk reproducing the oppressive framework in our own liberation movements.”<sup>370</sup> These oppressions are reproduced not only in ableist and racist words used to describe the movement but also in the colonial language used to counter cultural claims.

The campaign also reinforced colonialism. For example, Pamela Anderson, in a press

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<sup>366</sup> Benedict Singleton, “Love-iathan,” 37.

<sup>367</sup> Syl Ko quoted in Aph Ko, “Afrofuturism and Black Veganism.” Syl Ko goes on to argue that one should not be “‘comparing’ anything in this type of thinking. [One should] not[e] a common source. The connection [made] is not found in the oppressions themselves or the oppressed bodies.”

<sup>368</sup> Paul Watson cited in Aph Ko, “Afrofuturism and Black Veganism.”

<sup>369</sup> Ibid.

<sup>370</sup> Ibid.

conference about the campaign,<sup>371</sup> and Captain Paul Watson, in campaign-related publications, equate the Faroese with “barbarians,”<sup>372</sup> a term that has Greek origins to reference those that the Romans wished to colonize, and as not in keeping with the “civilized world.”<sup>373</sup> Countering such insults that viewed Faroese consumption of animals as less civilized than Western consumption of animals, many Faroese brought up the importance of subsistence and cultural heritage to whaling. Singleton finds,

Faroese pro-whalers thus reacted angrily to the suggestion that food was wasted or that they killed whales for pleasure and whilst there are clearly cultural elements to *grindadráp*, these cannot be separated from subsistence. Indeed, it was reported in the Faroese press that pilot whale meat represents 25% of domestic meat production (Wang 2014), and during a public debate with SSCS, a single mother highlighted the importance of free food to her household (Workman 2014). In the FPW ordering, participation in *grindadráp* is the right of all inhabitants of the Faroe Islands; a historical and present part of individual and community subsistence (Heinesen 2014) and in the absence of convincing arguments . . . pilot whalers persist. . . [S]ubsistence and culture [in the Faroe Islands] are irrevocably tied to notions of self-sufficiency, both on an individual and a national level. Pro-whaling Faroese usually articulated a position that it is better to utilize local 'Faroese' resources over imported substitutes. Within this ontology the Faroes are vulnerable, dependent on external sources for much food and lifestyle goods (Heinesen 2014). In this context, maintaining traditional resource gathering activities reduces this dependence on the outside as well as providing a buffer against any disasters that occur. One whaler put it starkly: "Look around you, there's only sea ... [w]hy should we not eat whale meat? It's [the only] natural food resource that we have. So for me, it's more like a principle". Another stated: "I'd rather eat whale meat that has come from ... the beach in Tórshavn, than having to import beef from Brazil." *Grindadráp* thus symbolizes self-sufficiency on many levels: the rights of individuals and communities to support

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<sup>371</sup> Pamela Anderson, Rosie Kunneke, and Lamya Essemlali, “Operation GrindStop 2014: Press Conference with Pamela Anderson.”

<sup>372</sup> Paul Watson, "A Note to all the Pro-Whale Murdering." Also see Sea Shepherd Conservation Society, "Blood Bath in the Faroes," *Sea Shepherd Conservation Society*, September 21, 2013, <http://www.seashepherd.org/news-and-media/2013/09/25/blood-bath-in-the-faroes-1526>. Also see Scott West, "Grindstop 2014 Update." Also see Sea Shepherd Conservation Society, "Sea Shepherd Launches Pilot Whale Defense Campaign, Operation Grindstop 2014, at Press Conference in the Faroe Islands," *Sea Shepherd Conservation Society*, June 17, 2014, <http://www.seashepherd.org/news-and-media/2014/06/17/sea-shepherd-launches-pilot-whale-defense-campaign-operation-grindstop-2014-at-press-conference-in-the-faroe-islands-1597>.

<sup>373</sup> Sea Shepherd Conservation Society, "Sea Shepherd Launches Pilot Whale Defense.

themselves and each other; the right for the Faroese to define what is necessary within their own society and as part of political and economic Faroese independence projects, within which food security is a part.<sup>374</sup>

In response to the question about what the Faroese should be eating at the same press conference, an audience member asked,

When we have this whale that we are supposed to eat and you don't want us to eat that whale, so let's say that we switch that whale, you get the whale, and we get the cow instead, from America for example. Would you leave us alone then?<sup>375</sup>

This question is getting at the very same hypocrisy that Keith Thomas argued was common for British in the nineteenth century—that despite traveler's reactions of horror and disgust to the treatment of animals abroad, it had been the British who were notorious for cruelty.<sup>376</sup> In response to the question, offshore crew coordinator for the GrindStop 2014 campaign, Lamya Essemli, stated “We are a marine conservation organization. . . we focus on the ocean issues.”<sup>377</sup> When pressed further, however, Essemli states, “I would not give you a cow, I would say, let's eat less meat.”<sup>378</sup> The first answer, reflecting Operation GrindStop's official position, demonstrates Sea Shepherd's unwillingness to comment on abstinence from eating meat, at least during the campaign. The words that SSCS is a “marine conservation organization” that only focuses on “ocean issues,” can be construed as an attempt to absolve SSCS of commenting on the question. The remark itself is questionable given the fact that intensive agriculture, and particularly animal agriculture, has resulted in over 550 Ocean Dead Zones in the world—resulting in habitat loss, displacement, and declined ability for its inhabitants to reproduce.<sup>379</sup> The second answer fares no better. The answer of “eating less

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<sup>374</sup> Benedict Singleton, “Love-iathan.”

<sup>375</sup> Pamela Anderson, Rosie Kunneke, and Lamya Essemli, “Operation GrindStop 2014.”

<sup>376</sup> Keith Thomas, *Man and the Natural World*, 208-209.

<sup>377</sup> Pamela Anderson, Rosie Kunneke, and Lamya Essemli, “Operation GrindStop 2014.”

<sup>378</sup> Ibid.

<sup>379</sup> “NOAA-, EPA-Supported Scientists Find Average but Large Gulf Dead Zone,” *National*

meat” fails to address the similarities between the “cruel” practices Sea Shepherd argued were central to the *grindadráp* and the cruelty perpetuated by the meat industry.<sup>380</sup> The hypocrisy of this statement is called out by a former whaler Jákup, who states,

I respect people who fight for animal rights, but when they use any dirty trick in the book and only focus on the whales, then I simply cannot take them seriously or respect them. To me, it should be about animal welfare, not just whale welfare. . . . People tend to forget that, or maybe they don't know about it. . . All meat has been alive at some point, so don't tell me that whaling is wrong while stuffing yourself with a burger. If you're vegan, then I fully support you.<sup>381</sup>

Jákup's statement clarifies the speciesism, and ethnocentrism, in Sea Shepherd's legal appeals for the protection of whales in the Faroe Islands but comparative unwillingness to address the more nuanced dialogue around the use of animals used in agriculture and their equally detrimental effect on marine ecosystems, worker rights, and rainforest destruction. It further underscores Sea Shepherd's anthropocentric tendency to cite 'cruelty' as a reason to conserve and protect cetaceans and sea turtles but not to use that same terminology when conserving Salmon or Toothfish. This marks a discrepancy between the ways that humanized animals are viewed as morally considerable and grievable, while dehumanized animals, such as salmon, toothfish or cows, are viewed as not morally considerable and non-grievable—a means to others' ends. Re-considering campaign tactics with regards to grappling with the effects of its campaigns is particularly important because it could save more lives.

For instance, scientists like Russel Fielding are already developing ways for the Faroe Islands to eat things other than whale, but, in doing so, has advocated for the expansion of the meat industry in the Faroe Islands. Fielding considers three alternatives to whale meat

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*Oceanic and Atmospheric Administration*, August 4, 2014, [http://www.noaanews.noaa.gov/stories2014/20140804\\_deadzone.html](http://www.noaanews.noaa.gov/stories2014/20140804_deadzone.html).

<sup>380</sup> Sea Shepherd Conservation Society, "Sea Shepherd History Stopping the Grind."

<sup>381</sup> Jákup, "Thoughts of a Former Whale Hunter."

consumption (which accounts for about 30% of local meat production) in the Faroe Islands: (1) increase meat imports to the Faroe Islands from Europe, (2) industrialize the local sheep farming industry, or (3) increase the consumption of fish farmed in the Faroe Islands.<sup>382</sup> For SSCS to brush off the question either by stating that they are a marine conservation organization, or by advocating for less meat consumption (as if the eating of whales and the eating of meat were not already interconnected and as if the question of what options the Faroese have for nutrition was not relevant to the issue of the *grindadráp*) is to place animals in a hierarchy of moral consideration, with animals used primarily for human consumption in Western hemispheres continually sidelined. It also reflects a missed opportunity for Sea Shepherd to take part in conceptualizing new options for Faroese that, unlike Fielding's approach, do not result in the degradation of ecosystems or the slaughter of animals, opting instead for "consultation, collaboration, and partnership with minority communities."<sup>383</sup> In this case, Sea Shepherd's failure to respond represents two conclusions. First, attempts to "bypass" public concerns (in keeping with Phelps Bondaroff and Eilstrup-Sangiovanni's definition of law enforcement) and any moral, emotional argument can be counterproductive. Second, it paints Sea Shepherd as an organization that has selected to target the Faroese *grindadráp* because Western legality structures are more suited to criticizing minority animal use practices.<sup>384</sup>

When asked a similar question of whether a whaler should eat pilot whale meat out of his fridge or buy vegetables from a supermarket, Pamela Anderson, who visited the Faroes to

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<sup>382</sup> Russell Fielding, "Environmental Change," 435-436

<sup>383</sup> Kymlicka, "Animals and Social Justice."

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show her support for SSCS' actions, answered, "I think you should eat your vegetables."<sup>385</sup>

Critical animal studies scholar Drew Robert Winter argues that Anderson's "off-the-cuff remark,"<sup>386</sup>

often said by parents to children as a way to demand healthy eating is an interesting choice of words. After all, which vegetables are "theirs"—the Faroe Islands is a tiny, cold, mountainous archipelago with virtually no vegetables of their own. The exchange captures the core of the debate between the Faroese and Sea Shepherd. . . it is a conflict of identities, and of globalized vs. localized worldviews. Sea Shepherd is leveraging popular international outrage at its target, and at times leveraging a formulation of veganism that, by default, subtly endorses globalized, neoliberal food policies.<sup>387</sup>

Winter further argues that such endorsements

limi[t] the scope of [SSCS's] intervention and obviate[e] the possibility of a nuanced dialogue of infrastructural food reform that accounts for the importance of human rituals . . . and the lives of animals like the pilot whale. . . Although there are certainly novel and radical farming practices that could increase local, efficient, and healthy food to the Faroese, or perhaps even ways to reimagine Faroese tradition without killing animals, there is no indication that this is on the minds of the Sea Shepherd, which is pointing towards the options readily available in Faroese supermarkets that are shipped in no small part from countries devastated by the hegemonic global food trade.<sup>388</sup>

These framings of veganism are problematic in that they a) ignore the neoliberal and exploitative nature of most agricultural practices; b) disregard the practical economic concern of having to pay for a new food source,<sup>389</sup> and c) trivialize larger systemic issues within mainstream vegan movements surrounding food justice. These instances exemplify how Sea Shepherd fails to account for racism, sexism, colonialism, and ableism where these sustain the oppression of animals.<sup>390</sup> The net result is a failure to take part in genuine and sustainable activism within the Faroe Islands. That the name of Sea Shepherd's media ship for the

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<sup>385</sup> Pamela Anderson, Rosie Kunneke, and Lamyia Essemlali, "Operation GrindStop 2014."

<sup>386</sup> Ibid.

<sup>387</sup> Drew Robert Winter, "Whale Wars with Market Forces," 2.

<sup>388</sup> Ibid., 2, 6-7.

<sup>389</sup> Pamela Anderson, Rosie Kunneke, and Lamyia Essemlali, "Operation GrindStop 2014."

<sup>390</sup> Julie Zeilinger, "The Surprising Way these Activists."

campaign was “Columbus,” sharing its name with notorious colonizer Christopher Columbus, only adds further insult to injury.

### **3.5 Operation GrindStop: The Campaign’s Use of Non-Direct Enforcement Tactics**

The use of a single tactic in and of itself rarely makes a campaign successful. Operation Grindstop’s page claimed that SSCS’ approach would also include “providing education [or] local outreach.”<sup>391</sup> From my personal experience on one of the Islands, there were very few outreach events (none on the island of Suðuroy, the southernmost of the Faroe Islands during the time I was on campaign). This is not to say that outreach did not happen across all locations of the campaign, but that it occurred in a very limited form. Part of this limited outreach impact was the language barrier (in particular, the inability for many assigned volunteers to speak either Faroese or English), campaign structure, and an unwillingness of SSCS volunteers to speak without SSCS’ approval. Singleton corroborates this perspective:

When I met them they were several minutes' drive outside of Tórshavn. Isolated within their car, they'd had little contact with Faroese people. Lacking Faroese they had no access to local media and discussion. Indeed, they stated that even when SSCS volunteers did meet and discuss the campaign with Faroese people difficulties using English could be a problem for some volunteers. Furthermore, as I found on several occasions, at times SSCS volunteers were unwilling to speak freely without permission from more senior figures, something pro-whalers had also noticed. As such, due to their locations and by the practicalities of communication, it was difficult for SSCS volunteers to come together with the wider Faroese community.<sup>392</sup>

Counter to SSCS’ claims, these experiences suggest that there were decisions and structures in the GrindStop campaign that hindered outreach. The unwillingness or inability for volunteers to speak to whalers or travelers without supervision from higher-ups, and the

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<sup>391</sup> Sea Shepherd Conservation Society "About the Campaign."

<sup>392</sup> Benedict Singleton, “Love-iathan,” 41.

ground crews main form of activism (which involved sitting in a car at secluded look-out points for up to twelve hours a day and only going into public places to refill the gas tank, use the washroom, and acquire groceries) only further frustrated the campaign's ability to perform local outreach in keeping with the campaign's goal. Singleton argues that SSCS' lack of willingness to participate in communication and involvement in community has precedent in earlier campaigns:

SSCS is built around the idea that previous successes in conservation could not have been achieved with dialogue; as Paul Watson, interviewed on Faroese television stated "You know, between 2000 and 2011 we were not in the Faroe Islands, which gave an enormous amount of time for other groups, which in fact other groups did go to the Faroe Islands to try and use dialogue. They got *nowhere*" (Kringvarp Føroya 2014). This 'crisis ontology' requires an uncompromising organization like SSCS willing to take immediate action, which itself serves to create highly charged situations; it placed numerous SSCS volunteers in a confrontational position.<sup>393</sup>

In line with previous SSCS campaigns and ideology, Operation GrindStop toed the line of promoting a "crisis ontology." This is not dissimilar to many campaigns, in which Sea Shepherd promotes such an ontology to the exclusion of performing the outreach and education that the campaign had ostensibly set out to do. Further, this crisis ontology ultimately disregards reports of growing anti-*grindadráp* sentiment to be on the rise in the Faroe Islands before the 2011 campaign and then continued growth after the campaign.<sup>394</sup>

Failed and/or ineffective community outreach initiatives within the campaign made use of this same crisis ontology. In a documentary released in early 2016, Ross McCall, a famous actor who volunteered to make a short documentary for Sea Shepherd about the *grind*, states,

the conflict of these two opposing sides has boiled over in the past, something I decided to help somewhat eradicate. Unfortunately, each side has pushed the other to

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<sup>393</sup> Ibid., 39.

<sup>394</sup> Benedict Singleton, "Love-iathan," 43.



a place where dialogue seems futile. The press conference was an out-stretched hand from Sea Shepherd to allow local press to ask anything regarding their latest campaign. A hand that was rejected in a seemingly loud and clear state. [The camera pans to a large empty press conference room as four Sea Shepherd representatives, including Rosie Kunnek, groundcrew coordinator of Operation Grindstop and the later Operation Sleppid Grindini, and Alex Cornelissen, CEO of Sea Shepherd Global, take their seats]. Today as you can see, mass exodus. Nobody took us up on the offer, *which is great for us*. To be honest, personally, I am not here to have a press conferences unless it's about actively seeking an end to the grind.<sup>395</sup>

This quotation reflects SSCS's absence of commitment to public outreach and its arguably alienating stance, despite claims to be doing otherwise. The above statement situates Operation GrindStop as, first and foremost, a campaign that relies on direct enforcement to the detriment of local activists. Given the above actions of SSCS, it is no wonder that individuals from the Faroe Islands perceive the presence of Sea Shepherd as a form of neocolonialism<sup>396</sup> or ecocolonialism.<sup>397</sup>

### 3.6 Faroese Activism

In contrast to SSCS' response to the *grindadráp*, Faroese activists have been standing up for pilot whales. Singleton argues that "it may be Faroese anti-whalers who represent a more substantive threat to pilot whaling."<sup>398</sup> Singleton argues that Faroese anti-whalers argue from a position of science in regards to health risks, "introspection after a well-publicized, badly-conducted and long-lasting drive," sustainability that is based not on numbers but "constituted of relationships, primarily human-human but also human-animal,"<sup>399</sup> animal welfare, and financial benefits of whale-based tourism. Many Faroese projects acknowledge

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<sup>395</sup> My emphasis. Ross McCall and Oden Roberts, "The Grind of the Faroe Islands."

<sup>396</sup> Olavur Gregersen, "The Faroese are easy prey," *The Arctic Journal*, August 5, 2014, <http://arcticjournal.com/opinion/859/faroese-are-easy-prey>.

<sup>397</sup> Claire Jean Kim, *Dangerous Crossings*, 242.

<sup>398</sup> Benedict Singleton, "Love-iathan," 44.

<sup>399</sup> *Ibid.*, 28.

the culture of the Faroe Islands and the space that the *grindadráp* has occupied in that culture, but maintain that it is the reciprocal relationship with the pilot whales, not the *grindadráp*, that is fundamental to Faroese identity. The Faroese documentary *Grindahvalur* starts with an excerpt from a famous book *Frðgar á Ferð* or, *The Old Man and His Sons* written in 1940 by famous Faroese writer Heðin Brú:

Fólk uppi á landi verða fálig, hóast frongfrøina varnast tey morðið,  
tað fellur teimum fyri bróstið at síggja hvalirnar souppkarvaðar, teir somu hvalirnar,  
sum tey fyri løtu sóu koma so fríðar og fermar  
við øllum stórlæti og frískleika yvir sær.<sup>400</sup>

The people on the shore had now fallen silent, for though they rejoiced in the hunt, they were a little abashed at the slaughter, sobered to see the whales so mutilated and dying—those same whales that a little before had been swimming briskly and beautifully, with all the gleam and pride of the mighty ocean upon them.<sup>401</sup>

Beginning with the words from the book that was awarded the Faroese *Book of the Twentieth Century* from a distinguished Faroese writer, and putting the text solely in Faroese the documentary speaks directly to the Faroese people, and alerting that the question of the morality of the *grindadráp* has been a question in the minds of Faroese since at least the 1940s. In the same documentary, a large part of the dialogue remains in Faroese and interviewed on the set are Faroese activists, ex-whalers, a biologist, a whaler, and the director of the department of occupational medicine and public health, and all but two of the interviewees are Faroese. The documentary itself focuses on each aspect of whaling, however, the changing relationship with the pilot whales is underlined considerably.

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<sup>400</sup> Drew Sutton and Andy Ottaway, *Grindahvalur*.

<sup>401</sup> Heðin Brú, *The Old Man and His Sons*, New York: Eriksson, 1970, <https://books.google.ca/books?id=KTchBQAAQBAJ&printsec=frontcover&dq=old+man+and+his+sons&hl=en&sa=X&ved=0ahUKEwjMmJTLgO3PAhVHwFQKHWCKCwgQ6AEIJTAA#v=onepage&q=old%20man%20and%20his%20sons&f=false>, 4.

Commercial diver, underwater photographer, and anti-*grindadráp* activist, Ingi Sørensen, states,

You most certainly don't have to be a whaler to be a Faroese. I am a proud Faroese, I am a 100 percent Faroese, but I am not a whaler. But of course I am proud of my culture, of the past, and what the whaling. . . in the old days when the men were rowing you know for the lives to get the food that was fantastic, but not more. The Faroese don't need whale meat anymore. . . in the old times we needed it, and without it, maybe we wouldn't be here. . . we should stop killing them. . . also because our own scientists say they are poisoned. . . I wish we could coexist with the pilot whales. I wish that, in the nearest future, the Faroese and the pilot whales could coexist. That we could appreciate the whales and we could watch them and we could dive with them and take pictures of them.<sup>402</sup>

This narrative changes the basis of Faroese identity from eating pilot whales to having a relationship with them—a relationship based on gratitude and coexistence. This narrative is also in line with Marna Frida Olsen's project, *Grindaboð*. She describes the project stating,

On the Faroe Islands pilot whales are hunted for food. The hunt is a dramatic sight that has upset many and been subject to a great deal of criticism from around the world. Since the beginning of the Faroese nation in the first millennium pilot whale meat has played an important role in the survival of it's [sic] people. The Faroes are remote islands with rough weather and tough residents who have had to survive on what few food sources they had access to. "GRINDABOOOOOÐ!" was shouted out loud, and in some degree still is, whenever there was a grind in sight. Grind is a pod of pilot whales. The word was a means of messaging and at the same time an expression of excitement. A whole communication system was set in motion in order to gather enough people for the hunt to be successful. The word boð means "message." Therefore grindaboð means "message about grind". This website messages about grind, but in a different way than tradition dictates. Today the pilot whale hunt is needless and causes unnecessary harm to the whales, yet the hunt remains an icon for the Faroes, a cultural symbol of a sort. Grindaboð.fo wishes to pay tribute to this iconic animal and promote alternative ways for the Faroese people to relate with pilot whales.<sup>403</sup>

Unlike the direct enforcement tactic, this approach attempts to conceptualize the ways the Faroese think about animals not from a colonial or anthropocentric perspective, but from a

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<sup>402</sup> Ingi Sørensen as cited in Drew Sutton and Andy Ottaway, *Grindahvalur*.

<sup>403</sup> Marna Frida Olsen, "About Grindaboð.FO," *Grindaboð*, Accessed October 24, 2016, <http://www.grindabod.fo/about-grindabod-fo/?lang=en>.

perspective of respect, acknowledging both the importance of Faroese identity as well as the sentience of nonhuman animals.

### **3.7 Summary**

This chapter discussed the ways in which Sea Shepherd's Faroe Islands campaigns follow the campaign strategy of direct enforcement as defined by Eilstrup-Sangiovanni and Phelps Bondaroff. Sea Shepherd's self-definition as a legitimate law enforcement agency, and its attempts to base its discourse on legality, failed on several fronts. First, it ignored local activists and community concerns. Second, it resulted in activism that jeopardized an already damaged political opportunity structure. Third, it disregarded the problem at hand—the deaths of the pilot whales and the pollution of the oceans. Each of these aspects served to reinforce colonialism and anthropocentrism in Operation Grindstop's use of the direct enforcement tactic. Examples such as *Grindaboð* or *Grindahvalur*, in contrast, serve to navigate potential possibilities for a future that recognizes and celebrates Faroese identity and the relationship of the Faroese to pilot whales without resorting to colonial or anthropocentric dialogue.

## Chapter 4: Direct Enforcement and Operation Jairo

*It is the first night of being on patrol. A group of us head out to Moin beach to patrol for the night, about a 45 minute boat ride away through the wetlands behind the small islands that dot the Caribbean coast. We arrive at the river mouth perpendicular to the beach at dusk. The outlet of the river is overflowing from flood season—a mess of plastic, rich soils, trees, branches, and animals exploding out of the Rio Matina. The local boat driver we have hired to bring us there says he will wait for us across the river because he does not feel safe waiting at this beach, causing me to become aware of the danger we are in. I fumble around with the camera equipment, and capture what I can. The end of the beach looks like a graveyard. All that is left of the abandoned tents of campers and poachers is their makeshift driftwood frames, which seem suspended on the beach. They resemble crucifixes, as if marking the graves of all the turtles, and of the humans who had attempted to protect them, who had died on the beach.*

*We trudge through the wet sand and make our way down the beach. My partner and I turn on our infrared camera, holding up the infrared lights, and monitor the bushes for possible signs of activity. After about two hours of walking down the beach, we spot a man with his stick in the sand. We rush over and see he is standing over a leatherback turtle. In this context, the stick in the sand has great significance: it is a sign of the local “poacher’s law” that exists in the area—and it means you have claimed the turtle and/or her eggs for yourself, despite any law stating otherwise.*

*Other poachers gather around us and the turtle and the ground crew leader puts the bag I had brought to keep the camera gear dry underneath her. She lays her eggs into them. On the infrared camera, I see more individuals gathering in the bushes, waiting. Once she is done laying her eggs, our security guard tells us, with some emphasis, we have to leave NOW. We have no time to wait for her to return to the water. I thank her, send her as much love as I can, and apologize to her. We run.*

### 4.1 Section

Operation Jairo was a Sea Shepherd Campaign that took place across three different locations over the summer of 2015: Honduras, Florida, and Costa Rica. I will focus on the Costa Rican location of Operation Jairo. At this location, the campaign ran from approximately May 31<sup>st</sup> to August 21<sup>st</sup> of the summer of 2015, of which I was a media crew member from June 24<sup>th</sup> to August 21<sup>st</sup>. At this location, the initiative was targeted at saving three species of marine turtle: Green (*Chelonia mydas*), Leatherback (*Dermochelys coriacea*), and Hawksbill (*Eretmochelys imbricata*). Over the course of my time on the

campaign, volunteers at the Costa Rican location managed to locate only approximately 7 sea turtle nests. This is low compared to the number of sea turtle nests saved by the organization LAST, which found 388 turtle nests that year on Pacuare beach alone. Though not insignificant, the low number of sea turtles saved by Sea Shepherd in comparison can be considered to reflect a number of variables: poor campaign timing, beach destruction as a result of intensive construction of the lower half of Moín due to the building of a new mega port, inclement weather, little to no interaction with community members, and the lack of a turtle biologist on most patrols.

First, I contextualize poaching of turtle meat and eggs in Costa Rica, and the international and national structures (in both written law and enforcement practices) upon which Sea Shepherd made claims to be enforcing law. I then use my personal experience from the campaign to frame my assessment of Operation Jairo, which relies on publications, press releases, and scholarship on sea turtle activism and SSCS. I argue that, while attempting to disrupt norms of impunity in Costa Rica for individuals who interfere in conservation efforts, the campaign came at the cost of alienating community initiatives, jeopardizing the political opportunity structure of future campaigns, and pulling focus away from and delegitimizing local Costa Rican activists. Such an approach is inimical to widely held findings that anti-poaching initiatives are more effective when they include community members.<sup>404</sup> The low number of sea turtle eggs saved over the Costa Rican campaign and

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<sup>404</sup> Lisa M. Campbell, "Contemporary culture, use, and conservation of sea turtles," in *The Biology of Sea Turtles, Volume II*, ed. J.A. Music and J. Wyneken 307-338, Boca Raton: CRC Press, 2003, [http://people.duke.edu/~lcampbe/docs\\_lmc/Campbell\\_2003\\_C12\\_Bio\\_Con\\_Sea\\_Turtles.pdf](http://people.duke.edu/~lcampbe/docs_lmc/Campbell_2003_C12_Bio_Con_Sea_Turtles.pdf), 323.

Lisa M. Campbell, Jennifer J. Silver, Noella J. Gray, Sue Ranger, Annette Broderick, Tatum Fisher, Matthew H. Godfrey, et al, "Co-Management of Sea Turtle Fisheries: Biogeography

lack of community support, instead, suggests that SSCS' focus on enforcement, legitimacy, and proportionality came at the expense of alienating local activists and saving fewer sea turtles' lives. Further, the campaign as a whole, and its mobilization of direct enforcement specifically, was ineffective at addressing Costa Rica's systematic poaching problems, enforcement practices, and laws.

#### **4.2 Laws Protecting Sea Turtles in Costa Rica**

Sea turtles are protected both internationally and nationally in Costa Rica. They are protected by a number of treaties on an international level, including the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC) (approved by Law No. 7906), Convention on the Conservation of Migratory Species of Wild Animals (CMS), Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) (approved by Costa Rican Law No. 5605), the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (RAMSAR), the Central American Convention on Biodiversity (CCBD), and the Rio Declaration on Environment and Development.<sup>405</sup> Sea turtles are also protected by a number of documents within Costa Rica, including the constitution of Costa Rica, Ley de Conservación de la Vida Silvestre N° 7317, Ley de protección, conservación y manejo de tortugas marinas. N° 8325, Ley el Servicio de Parques Nacionales N° 6084, Ley Orgánica del Ambiente. N° 7554, Ley de Biodiversidad N° 7788,

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Versus Geopolitics," *Marine Policy* 33, no. 1 (2009): 137-145, doi:10.1016/j.marpol.2008.05.005, 138.

<sup>405</sup> Thomas T. Ankersen, Jaclyn Lopez, Aileen Orozco, and Elizabeth Turner, "Defending the Defenders: How Human Rights and Sea Turtle Conservation Justify a New National Park on Costa Rica's Caribbean Coast," Accessed October 21, 2016, [https://www.law.ufl.edu/\\_pdf/academics/academic-programs/study-abroad/costa-rica/sea\\_turtle.pdf](https://www.law.ufl.edu/_pdf/academics/academic-programs/study-abroad/costa-rica/sea_turtle.pdf).

and Ley de Pesca y Acuicultura N° 8436.<sup>406</sup>

### 4.3 Dangers Facing Sea Turtles and Conservationists in Costa Rica

Leatherback Sea Turtles, Green Sea Turtles, Hawksbill Sea Turtles are all poached on the Caribbean side of Costa Rica on beaches such as Moín, Tortuguero, and Pacuare. The *hueveros*, literally ‘egg men,’ poach the eggs and then sell them illegally for one dollar an egg—approximately 70-120 dollars per nest, despite the national and international laws against the practice. In Tortuguero, the Miskito fished offshore “hundreds of years” prior to colonization in the 1930s.<sup>407</sup> Further, European explorers are reported to have eaten Tortuguero sea turtles since the seventeenth century.<sup>408</sup> Residents of Tortuguero ate green turtles and sold turtles at least until the 1970s.<sup>409</sup> Turtles continue to remain an important local resource, especially because other enterprises in the region (a banana plantation and a saw mill) experienced both boom and bust cycles. In Límon, the port city near the beaches Moín and Pacuare, there is still a market for turtle meat and eggs, as “the use of turtle products has had a long tradition in the area.”<sup>410</sup> Turtle eggs are considered an aphrodisiac in Costa Rica and are often sold in bars and drank from a shot glass with *sangrita*—a spicy tomato drink.<sup>411</sup> Eggs have also been reported to be sold as a boiled snack with salt, vinegar, and peppers.<sup>412</sup> However, in 1999 “a sea turtle fishery that licensed the capture of 1800 green

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<sup>406</sup> Ibid.

<sup>407</sup> Lisa M. Campbell, “Contemporary culture,” 307.

<sup>408</sup> Lisa M. Campbell, “Contemporary culture,” 307.

<sup>409</sup> Lisa M. Campbell, “Contemporary culture,” 307.

<sup>410</sup> Cindy Taft, “Lawsuit bans sea turtle killing in Costa Rica,” *Velador* Spring 1999, no. 2 (1999): 1, 6, [https://www.conserveturtles.org/pdf/velador/Velador-Issue2\\_1999.pdf](https://www.conserveturtles.org/pdf/velador/Velador-Issue2_1999.pdf), 6.

<sup>411</sup> Zach Dyer, “Police Arrest 2 Brothers for Turtle Egg Poaching in Moín.” *Tico Times*, May 30, 2014, <http://www.ticotimes.net/2014/05/30/police-arrest-2-brothers-for-turtle-egg-poaching-in-moin>.

<sup>412</sup> Jennie Erin Smith, “Murder on Moín Beach,” *Turtle Conservancy*, March 31, 2016, <http://www.turtleconservancy.org/news/2016/3/murder-on-moin-beach>.



turtles a year” closed as a result of environmentalists in Costa Rica and the U.S., which outlawed the poaching of sea turtles.<sup>413</sup> Cindy Taft observes,

The case attacked the annual turtle harvest on the grounds that it (1) violates the fundamental right of Costa Ricans to a healthy and ecologically balanced environment as guaranteed in Article 50 of the Constitution; (2) violates several international agreements that are in force and take precedence over national laws (e.g. the Convention on Flora, Fauna and Natural Scenic Beauty of the American Nations of 1976, the Convention for the Conservation of Biodiversity and the Protection of Priority Central American Wildlands, and the Convention on Biological Diversity); and, (3) was never adequately enforced by the Costa Rican fishery institute INCOPECA and provided cover for a much larger illegal harvest of sea turtles.<sup>414</sup>

Despite the illegality of poaching, however, for some, sea turtle and egg poaching became a “‘legitimate’ cover for illicit drug-running activities along the Caribbean coast.”<sup>415</sup> The practices of poaching turtle eggs and meat in the area has been nationally illegal since 1966<sup>416</sup> and 1999,<sup>417</sup> respectively. However, turtle meat and eggs still remain popular throughout Costa Rica and enforcement remains problematic, especially on Moín, an ecologically sensitive turtle nesting beach known for drug trafficking as well as poaching. Complicating the enforcement of these laws is the fact that there is one legal poaching operation in Ostional—a beach on the pacific side of Costa Rica. While these “legal eggs are required to come with an official receipt with a seal from the Environment Ministry,”<sup>418</sup> the situation opens up a legal loophole for poachers on the Atlantic to claim that the eggs

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<sup>413</sup> Lisa M. Campbell, “Contemporary culture,” 308.

<sup>414</sup> Cindy Taft, “Lawsuit bans,” 1.

<sup>415</sup> Cindy Taft, “Lawsuit bans,” 6.

<sup>416</sup> Claire Le Guern, “Sea Turtle Egg Poaching Legalized in Costa Rica: The Debate,” *Coastal Care*, July 29, 2016, <http://coastalcare.org/2011/07/legalized-poaching-turtles-eggs-and-playa-ostional-costa-rica/>.

<sup>417</sup> Cindy Taft, “Lawsuit bans,” 1.

<sup>418</sup> Lindsay Fendt, “Police have Saved 2,276 Sea Turtle Eggs from Poachers on Costa Rica's Caribbean Coast,” *Tico Times*, May 22, 2014, <http://www.ticotimes.net/2014/05/22/police-have-saved-2276-eggs-from-poachers-on-costa-ricas-caribbean>.

poached on the Atlantic side of Costa Rica are from Ostional. The turtle eggs themselves make about one dollar each, and with nests around 100 eggs, it can be a lucrative endeavor for individuals whose other options are limited to labour including working on Del Monte's pesticide-ridden banana and pineapple plantations, which do equal, if not more, destruction to the surrounding ecosystem. Individuals will grab the turtle off of the beach, slice open her belly, take out the eggs (oftentimes while the turtle is still conscious), and then recover what meat they can find.

While there are some enforcement initiatives on behalf of police, poaching remains common in the area and has resulted in a number of local conservationist organizations to take up the job of enforcing law. Journalist Lindsay Fendt reports, "[s]ince 1989, 10 Costa Rican environmental activists have been killed. Though arrests have been made in some of these cases, not one has resulted in a conviction."<sup>419</sup> Mauricio Álvarez, president for Costa Rica's Federation for the Conservation of the Environment (FECON), argues, "[d]uring the investigation of these cases [the investigators] don't often look at the victim's activism as a cause for the crime . . . But the result is still that people become afraid to be activists."<sup>420</sup> Fendt further argues that this lack of enforcement is particularly prevalent in the case of Costa Rican park rangers and environmental protectors, who "must face dangerous criminals on their own."<sup>421</sup> Fendt corroborates Álvarez's claim:

While no government groups keep numbers on reported attacks against environmentalists, the increase in perceived violence is already taking its toll. Turtle

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<sup>419</sup> Lindsay Fendt, "Poachers and Drug Traffickers are Creating a Deadly Environment in Costa Rica," *Vice News*, June 19, 2015, <https://news.vice.com/article/poachers-and-drug-traffickers-are-creating-a-deadly-environment-in-costa-rica>.

<sup>420</sup> Ibid.

<sup>421</sup> Lindsay Fendt, "Violence Plagues Costa Rican Conservationists," *Aljazeera*, April 12, 2014, <http://www.aljazeera.com/indepth/features/2014/04/violence-plagues-costa-rican-conservationists-poach-201447133025902449.html>.

conservation groups across the country saw marked decreases in the number of foreign volunteers entering their programmes, and hotel and tour operators in the Caribbean say they have seen volume decreases as well. . . . Meanwhile, conservationists within Costa Rica's borders have jumped on the international mood shift to point to what they say is a long-standing misrepresentation of the country's green policies.<sup>422</sup>

Despite reports that the police conduct joint patrols with conservation groups,<sup>423</sup> there are numerous cases in which enforcement in Costa Rica has failed to protect activists. For example, take the case of Canadian Kimberly Blackwell, in which poachers threatened and murdered her and her dogs after she reported their illegal hunting practices—a case that many attribute to being solved after “Prime Minister Stephen Harper pledged funding to Costa Rica to help with the training of police.”<sup>424</sup> Justice, however, still fails to be served when local Costa Rican activists are being painted by Environment Minister Rene Casto as “a bunch of crazy green guys.”<sup>425</sup> Other cases on Moín alone include when a group of illegal hunters stabbed a volunteer where the charges were dropped due to lack of evidence; another volunteer was shot “after filing criminal complaints against poachers,”<sup>426</sup> the volunteer coordinator for the Moín sea turtle program, Vanessa Lizano, was threatened with the life of her son and chased with AK-47s,<sup>427</sup> and Scientist María Teresa Koberg’s camp had been set fire to in the 1990s.<sup>428</sup> Fendt argues that “at Moín, police seem uninterested in making turtle

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<sup>422</sup> Ibid.

<sup>423</sup> Zach Dyer, "Police Arrest 2 Brothers."

<sup>424</sup> Clayton R. Norman, “Police arrest suspect in killing of Canadian woman in Osa,” *Tico Times*, November 12, 2011, <http://www.ticotimes.net/2011/11/12/police-arrest-suspect-in-killing-of-canadian-woman-in-osa>.

<sup>425</sup> Lindsay Fendt, “Violence Plagues Costa Rican Conservationists.”

<sup>426</sup> Ibid.

<sup>427</sup> Lindsay Fendt, "Murdered Costa Rican Conservationist had been Chased by AK-47-Wielding Poachers," *Tico Times*, May 31, 2013, <http://www.ticotimes.net/2013/06/01/murdered-costa-rican-conservationist-had-been-chased-by-ak-47-wielding-poachers>.

<sup>428</sup> Jennie Erin Smith, “Murder on Moín Beach.”

conservation a priority,”<sup>429</sup> and Lizano corroborates, “[t]he poachers were able to completely take control of the beach because of a lack of police force.”<sup>430</sup>

Examples of state-led efforts against environmental activists, Indigenous persons, and land defenders for the purposes of colonization and resource extraction include the murder of Pa-brú Preseberi, or Pablo Presbere, who was murdered by Spanish colonizers in 1710 after staging a rebellion that enabled the Indigenous peoples of the area to regain control of Talamanca and became a place of refuge during Costa Rica’s colonial era.<sup>431</sup> State and corporate led militarization against Indigenous land defenders and conservationists in the name of resource extraction within Costa Rica continue to this day. For example, Bribri communities have been lawfully reoccupying land that had been used for farming. However, in 2013, three Bribri were sent to the hospital suffering gunshot and stab wounds at the hands of the farmers<sup>432</sup> and, in 2014, farmers attacked 80 non-Indigenous farmers, burned down four of their houses, and staged a blockade to stop them from leaving.<sup>433</sup> In both examples, farmers enjoyed impunity and Bribri had very little protection. This situation has led to the

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<sup>429</sup> Lindsay Fendt, "Violence Plagues Costa Rican Conservationists."

<sup>430</sup> Lindsay Fendt, "Murdered Costa Rican Conservationist."

<sup>431</sup> "Pabru Presbere: Héroe De La Resistencia Indígena En Costa Rica," *Asociación Nacional de Empleados Públicos y Privados*, <http://www.anep.or.cr/article/pabru-presbere-heroe-de-la-resistencia-indigena-en/>.

<sup>432</sup> John H. Knox, "Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment on His Mission to Costa Rica (28 July–1 August 2013)," *Wake Forest University School of Law Legal Studies Research Paper Series*, March 21, 2014, [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-53-Add1\\_ar.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-53-Add1_ar.doc).

<sup>433</sup> Zach Dyer and Lindsay Fendt, "Farmers Invading Costa Rica Indigenous Reserve Chase Out Families, Burn Crops," *Tico Times*, July 7, 2014, <http://www.ticotimes.net/2014/07/07/farmers-invading-costa-rica-indigenous-reserve-chase-out-families-burn-crops>.

UN to cite a warning to stop the “persecution, threats and violent repression” of Indigenous peoples.<sup>434</sup>

Fuerza Publica’s place in these colonial, racist, classist, developmentalist, and capitalist histories is reflected in their disproportionate and violent responses to environmental advocate and labour union protests of large scale development and resource extraction. In 2011, the police sent an entire bus of Riot Police to protect the manager of APM terminals during a peaceful protest of environmental and fair labour advocates<sup>435</sup> against APM terminals’ construction.<sup>436</sup> This tendency is further reinforced in the marginalization of activists that has left wholly or partially unsolved the deaths of Antonio Zúñiga, Olof Wessberg, Jorge Aguilar, Óscar Fallas, Jaime Bustamante, María del Mar Cordero, David Maradiaga, and Diego Armando Saborío.<sup>437</sup>

#### **4.3.1 Development and Threats to Turtles and Activists**

The underenforcement of turtle conservation laws and laws protecting activists has created an atmosphere in which conservationists are increasingly unprotected while participating in beach patrols, resulting in a steep decrease in foreign volunteers. Deterring volunteers from the beach has been considered by some to be a “plot against

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<sup>434</sup> Zach Dyer, "Human Rights Mission Warns of 'Militarization' of Costa Rica’s Treatment of Indigenous Peoples," *Tico Times*, August 30, 2013, <http://www.ticotimes.net/2013/08/30/human-rights-mission-warns-of-militarization-of-costa-rica-s-treatment-of-indigenous-peoples>.

<sup>435</sup> Yamileth Angulo, "Limonenses Junto a Sintrajap Se Manifiestan Contra APM Terminals," *Elmundo.Cr*, February 19, 2015, <http://www.elmundo.cr/limonenses-junto-a-sintrajap-se-manifiestan-contra-apm-terminals/>.

<sup>436</sup> "Juicio Contra APM Terminals Caldea Ánimos De Muellers," *La Nación*, October 21, 2011, [http://www.nacion.com/nacional/comunidades/Juicio-APM-Terminals-caldea-muellers\\_0\\_1227277394.html](http://www.nacion.com/nacional/comunidades/Juicio-APM-Terminals-caldea-muellers_0_1227277394.html).

<sup>437</sup> Mauricio Álvarez, "Jairo Mora y El Terrorismo En Costa Rica," *Federación Ecologista*, June 9, 2016, [http://www.feconcr.org/index.php?option=com\\_content&task=view&id=2549&Itemid=76](http://www.feconcr.org/index.php?option=com_content&task=view&id=2549&Itemid=76).

environmentalists” on the beach, to benefit the drug cartel<sup>438</sup> and APM terminals, the company building a mega-port on Moín. This is troubling as it may be the construction of the mega-port itself that constitutes the leading cause of sea turtle endangerment on the beach. Consultants hired by APM reported that Moín “does not harbor important sites for marine turtle nesting,”<sup>439</sup> despite the beaches’ long documented history as a crucial place for turtle conservation.<sup>440</sup> Facing national and international pressure, APM terminals, in conjunction with MINAE, did start up a small sea turtle nursery, overseen by Erick Aguilar.<sup>441</sup> However, this project fails to address how the extensive construction along the beach has resulted in the pollution of the entire area, which is a nesting ground for the baby sea turtles. Studies show that the area’s petroleum pollution was already highly concentrated in 1981, were even higher in 1997-1998<sup>442</sup> and are only forecasted to grow given the formation of the mega port in Moín. Further, Sea Turtles on Moín, in many cases, are released within kilometers of the dredger making way for the port. Dredging, which is the sucking and movement of ocean sediments in close proximity to the shoreline to another area to make way for larger boats, has been found to have a substantial impact on sea turtles. One report found that between 1980 and 2003, 508 sea turtles were impacted by dredgers “from 38 different locations throughout the United States.”<sup>443</sup> Dredgers can injure sea turtles, causing fractures, crushed

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<sup>438</sup> Jennie Erin Smith, “Murder on Moín Beach.”

<sup>439</sup> Jennie Erin Smith, “Murder on Moín Beach.”

<sup>440</sup> Jennie Erin Smith, “Murder on Moín Beach.”

<sup>441</sup> *Channel 7*, “Liberación De Tortugas En Moín - APM Terminals,” Youtube Video, APM Terminals Moín, July 6, 2016, <https://www.youtube.com/watch?v=OPTMdVzT4nE>.

<sup>442</sup> Jorge Cortés, *Latin American Coral Reefs* (Amsterdam: Elsevier Science B.V., 2003), <https://books.google.ca/books?id=LLIwoNsqxj0C&printsec=frontcover#v=onepage&q&f=false>, 233.

<sup>443</sup> Daphne Wrobel Goldberg, Daniella Torres de Almeida, Frederico Tognin, Gustavo Gilles Lopez, Gabriella Tiradentes Pizetta, Nilamon de Oliveira Leite Junior, and Roberto Sforza. "Hopper Dredging Impacts on Sea Turtles on the Northern Coast of Rio De Janeiro State,

tissues, hemorrhage, blunt force trauma, amputations, and mortality, stirring up toxic pollutants and covering sea turtle foraging grounds,<sup>444</sup> creating a “sediment plume, which can affect aesthetics, light penetration, feeding, and, at very high levels, could injure sea turtles. . . [and] disrupt the feeding activity of sea turtles in the protect area and at the dredged material placement site.”<sup>445</sup> Between 2008 to 2015, 112 out of 1725 sea turtles were found either dead or with injuries as a result of dredging during the construction of a port.<sup>446</sup> Despite recommendations by Goldberg et al. that “strongly discourage hopper dredging operations on sea turtle nesting grounds during nesting seasons,”<sup>447</sup> and for sea turtles to be relocated “away from the path of the dredge,”<sup>448</sup> APM terminals has not taken into account the effects of its development on the sea turtles. While scientific research as to the effect of dredging on hatchlings is sparse, the above study indicates that it could severely compromise any sea turtle operations on Moín while dredging continues. Further, with intensive agriculture and oil refineries such as RECOPE already threatening, the mega port, which has now created visibly oily water, may constitute the largest threat to sea turtle survival, regardless of how many hatcheries or rehabilitation hospitals APM terminals builds for sea

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Brazil," *Marine Turtle Newsletter* no. 147 (2015): 16-20,  
<http://www.seaturtle.org/mtn/archives/mtn147/mtn147-6.shtml>.

<sup>444</sup> Ibid.

<sup>445</sup> Federal Energy Regulatory Commission, *Draft Environmental Impact Statement: LNG Clean Energy Project* (Washington: Office of Energy Projects, 2006),  
[https://books.google.ca/books?id=bMA1AQAAAMAJ&pg=SL154-PA12&lpg=SL154-PA12&dq=LNG+Clean+Energy+Project+:+Environmental+Impact+Statement&source=bl&ots=ohYg1UNSFo&sig=Ixj33joaf4d0\\_Bq6mii5Z\\_ubGtA&hl=en&sa=X&ved=0ahUKEwjXiJS9zvHPAhVXwGMKHQJBCmQQ6AEINzAE#v=onepage&q=LNG%20Clean%20Energy%20Project%20%3A%20Environmental%20Impact%20Statement&f=false](https://books.google.ca/books?id=bMA1AQAAAMAJ&pg=SL154-PA12&lpg=SL154-PA12&dq=LNG+Clean+Energy+Project+:+Environmental+Impact+Statement&source=bl&ots=ohYg1UNSFo&sig=Ixj33joaf4d0_Bq6mii5Z_ubGtA&hl=en&sa=X&ved=0ahUKEwjXiJS9zvHPAhVXwGMKHQJBCmQQ6AEINzAE#v=onepage&q=LNG%20Clean%20Energy%20Project%20%3A%20Environmental%20Impact%20Statement&f=false).

<sup>446</sup> Daphne Wrobel Goldberg, Daniella Torres de Almeida, Frederico Tognin, Gustavo Gilles Lopez, Gabriella Tiradentes Pizetta, Nilamon de Oliveira Leite Junior, and Roberto Sforza. "Hopper Dredging Impacts."

<sup>447</sup> Ibid.

<sup>448</sup> Ibid.

turtles if they continue to be released on Moín beach near the construction.

#### **4.4 Sea Shepherd's History in Costa Rica**

Outside of nesting turtle conservation, Sea Shepherd has a long history of working in Costa Rica and forging what could be considered awkward or strained relationships with the community, government, coast guard, corporations, and other enforcement structures of Costa Rica. For example, SSCS detained ships in Cocos Island in 1989,<sup>449</sup> caught and evicted poachers by using “water cannons, pie cannons, stink bombs, and paintball guns” in 1992, sent video of the poachers to the “authorities in Costa Rica”<sup>450</sup> in the same year, and confiscated longline and illegal catches in 2001.<sup>451</sup> In 2002, Sea Shepherd signed an agreement with Costa Rica that gave “Sea Shepherd the authority to intervene in all illegal fishing operations around Cocos Island.”<sup>452</sup> Likely the most memorable development of Sea Shepherd's presence in Costa Rica is the request from Costa Rica and Japan to issue an INTERPOL Red Notice for Captain Paul Watson.<sup>453</sup> This was a result of an event from 2002, in which Sea Shepherd had an altercation with the Costa Rican Longliner *Varadero I* that resulted in charges against Captain Paul Watson of attempted murder and destruction of property, for which Watson “elude[d] the police and returns to his ship and departs Costa Rican waters,”<sup>454</sup> and a result of his skipping bail during the extradition process when arrested in Frankfurt, Germany on the same charges.<sup>455</sup> In early 2015, Channel 7 interviewed

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<sup>449</sup> Sea Shepherd Conservation Society, "The History of Sea Shepherd."

<sup>450</sup> Ibid.

<sup>451</sup> Ibid.

<sup>452</sup> Ibid.

<sup>453</sup> "INTERPOL Red Notice Issued for Paul Watson at Japan's Request," INTERPOL, September 17, 2012, <https://www.interpol.int/News-and-media/News/2012/N20120914/>.

<sup>454</sup> Sea Shepherd Conservation Society, "The History of Sea Shepherd."

<sup>455</sup> Ibid.



Captain Paul Watson about his experience with Costa Rican law enforcement and his Interpol Red status, which was part of a larger Sea Shepherd campaign that involved billboards of Paul Watson put up around the country.<sup>456</sup> Later the same year, the *RV Martin Sheen* arrived at the Pacific side of Costa Rica and participates in some outreach work at a local school and a local community event and has a fundraiser night. Sea Shepherd is also visited by elementary school students from Alajuela in an art project held with Pollo Rey, a chicken restaurant chain that owns a large slaughterhouse in Alajuela, during which students were interviewed sporting Pollo Rey t-shirts during their visit on the *Martin Sheen* on Costa Rica's Channel 7.<sup>457, 458</sup> Sea Shepherd later departed for a research trip to Cocos Island to investigate illegal fishing "to determine the desirability of cooperation agreements between the government [and Sea Shepherd] in order to strengthen the controls."<sup>459</sup> These examples serve as evidence of a strained and somewhat contradictory relationship between Sea Shepherd, or at least between founder Captain Paul Watson, and the Costa Rican government. It also shows some examples of well-intentioned outreach projects that in some

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<sup>456</sup> Paul Watson, "My Message to the Government of Costa Rica: Enough is enough," *Sea Shepherd Conservation Society*, April 28, 2015, <http://www.seashepherd.org/commentary-and-editorials/2015/04/28/my-message-to-the-government-of-costa-rica-enough-is-enough-705>.

<sup>457</sup> Luis Ortiz, "Escolares Navegan En Velero De Investigación y Aprenden Sobre La Conservación," *Teletica*, July 9, 2015, <http://www.teletica.com/Noticias/96075-Escolares-navegan-en-velero-de-investigacion-y-aprenden-sobre-la-conservacion.note.aspx>.

<sup>458</sup> Sea Shepherd Costa Rica, *Sea Shepherd Costa Rica (Oficial)* (Facebook page), July 6, 2015, <https://www.facebook.com/SeaShepherdCR/photos/pcb.587586398046850/587584111380412/?type=3&theater>.

<sup>459</sup> The *RV Martin Sheen*, "Sea Shepherd's *RV Martin Sheen* arrived Saturday the 15th of August at Cocos island," *The RV Martin Sheen* (Facebook page), August 24, 2015, <https://www.facebook.com/SeaShepherdMartinSheen/photos/a.726770357398462.1073741828.725148334227331/884827681592728/?type=3&theater>.

cases may indicate a counterproductive collaboration between environmentally destructive businesses (such as chicken farming) and conservation organizations.

#### 4.4.1 Sea Shepherd's Turtle Campaign Pre-Operation Jairo: Operation Pacuare

Sea Shepherd's work in Costa Rica with nesting sea turtles started following the 2013 murder of Jairo Mora Sandoval, a Costa Rican turtle conservationist. In 2014, Sea Shepherd launched Operation Pacuare, a sea turtle defence campaign. The campaign ran from August 15, 2014<sup>460</sup> to November 1<sup>st</sup>, 2014.<sup>461</sup> The campaign was described as "a joint sea turtle anti-poaching campaign between Sea Shepherd Conservation Costa Rica and Latin American Sea Turtles (LAST) [and] Association on Pacuare Beach [also known as la Asociación para el Ambiente de Nuevo Pacuare]."<sup>462</sup> That year, Sea Shepherd also held an educational presentation for 22 students from the isolated area with LAST and Juventud Activa de Conservación Ambiental Nacional (JACANA), a local organization to promote environmental awareness and reforestation in Siquirres.<sup>463</sup> Sea Shepherd also worked with

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<sup>460</sup> Sea Shepherd Conservation Society, "Operation Pacuare Wrap-Up – the Numbers are in," *Sea Shepherd Conservation Society*, December 12, 2014, <http://www.seashepherd.org/news-and-media/2014/12/12/operation-pacuare-wrap-up-the-numbers-are-in-1653>.

<sup>461</sup> Sea Shepherd Conservation Society, "Report from the Field: Operation Pacuare," *Sea Shepherd Conservation Society*, October 7, 2014, <http://www.seashepherd.org/news-and-media/2014/10/07/report-from-the-field-operation-pacuare-1639>.

<sup>462</sup> Sea Shepherd Conservation Society, "What is Operation Pacuare," *Sea Shepherd Conservation Society*, accessed October 21, 2016, <http://www.seashepherd.org/pacuare.html>.

<sup>463</sup> JACANA. *JACANA*. (Facebook Page), September 23, 2014, [https://www.facebook.com/permalink.php?story\\_fbid=746447808723855&id=718583704843599](https://www.facebook.com/permalink.php?story_fbid=746447808723855&id=718583704843599). Also see

Sea Shepherd Costa Rica, "Nuestro Trabajo En Conjunto Voluntarios De Sea Shepherd Costa Rica, Last~Widecast, JACANA, Visión Mundial," *Sea Shepherd Costa Rica (Oficial)* (Facebook page), 6 July 2015, <https://www.facebook.com/SeaShepherdCR/photos/a.445692995569525.1073741841.173379809467513/478151208990370/?type=3&theater>.

JACANA to collect school supplies for 15 children that year, as requested by the Asociación para el Ambiente de Nuevo Pacuare.<sup>464</sup> The campaign also reported that there were

many residents . . . committed to the survival of the endangered sea turtles. . . working with locals to patrol the beach. . . [and] hiring a local cook. . . [and working] with the community on initiatives such as the creation of a recycling centre to keep the beach clean, and delivering school supplies to the local school while presenting a lesson on the importance of turtle conservation.<sup>465</sup>

Sea Shepherd volunteers are also reported to have helped to clear out a nearby medical centre.<sup>466</sup> The campaign also seemed to be effective from a numbers standpoint as well, although there is some discrepancy in the number of sea turtles saved. Despite the fact that they were working together, LAST and Sea Shepherd reported varying statistics on the species and type of turtles saved during the season. According to LAST's statistics, a total of 86 and 76 green turtle nests were saved in August and September, respectively, and about 15 were found in October while no hawksbill or leatherback turtles were found at that time.<sup>467</sup> In contrast, according to Sea Shepherd, Sea Shepherd volunteers located 42 nests, resulting in the relocation of 4737 eggs including 559 leatherback, 1532 green, and 2646 hawksbill eggs.<sup>468</sup>

#### **4.5 Direct Enforcement in Operation Jairo**

In contrast to Operation Pacuare, Operation Jairo took place from May 31st to August 22nd, 2016. Unlike the multi-faceted enforcement, outreach, collaboration, and community focuses of Operation Pacuare, Operation Jairo focused more heavily on direct enforcement as

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<sup>464</sup> JACANA. *JACANA* (Facebook Page).

<sup>465</sup> Sea Shepherd Conservation Society, "Report from the Field."

<sup>466</sup> Sea Shepherd Conservation Society, "Operation Pacuare Wrap-Up."

<sup>467</sup> Didier Chacón, *Informe Final De La Anidación De Tortugas Marinas: Playa Pacuare, Costa Rica (Temporada 2014)*, San Jose: Latin American Sea Turtles, 2014, <http://www.latinamericaseaturtles.com/archivos/documentos/Pacuare2014.pdf>.

<sup>468</sup> Sea Shepherd Conservation Society, "Operation Pacuare Wrap-Up."

the main tactic. The campaign relied on ground crew members, who walked up and down the beaches of Moín and Pacuare each night with teams of 1-7 hired body guards and sometimes police presence, taking one to two shifts per night. If a sea turtle was spotted, the ground crew's role was to notify the other organizations or police on the beach and protect the turtle and her eggs before they arrived, as Sea Shepherd did not hold the permits for Moín or Pacuare during the nesting season. Unlike Operation Pacuare, Sea Shepherds did not build or guard hatcheries, or release sea turtles they had saved, but did watch a few sea turtle releases at APM terminals' hatchery. Further, Operation Jairo did not have the support of LAST, la Asociación para el Ambiente de Nuevo Pacuare, or work with JACANA on Pacuare as it had the year before. They did, however, work with the organization Quelonios del Caribe, although the relationship ended after about a month and a half when Sea Shepherd left Pacuare soon after an attack to stay in Moín, where Sea Shepherd patrolled with police alongside the hired body guards they had also been using at Pacuare.

Similar to Operation GrindStop, Operation Jairo, Costa Rica used appeals to law; however, the Costa Rican campaign appealed to both national and international laws to justify its actions. Additionally, while Operation GrindStop focused on the illegality of Faroese and Danish law and enforcement structures, Operation Jairo, Costa Rica emphasized the necessity of their enforcement presence by largely citing the inadequacy of current voluntary NGO conservation projects.<sup>469</sup> Although Sea Shepherd's campaigns in the Faroe Islands did frame local activists as unwilling and/or unable to speak up against the

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<sup>469</sup> Sea Shepherd Conservation Society, "Pacuare Beach, Costa Rica: September 1- December 1, 2016," *Sea Shepherd Conservation Society*, accessed October 21, 2016, <http://www.seashepherd.org/jairo/costa-rica.html>.

*grindadráp*,<sup>470</sup> Operation Jairo articulated that the purported absence of local activists left sea turtles vulnerable and necessitated and legitimized Sea Shepherd's presence there.<sup>471</sup> Further, unlike Operation GrindStop, Operation Jairo and the 2016 campaign Operation Jairo II in Costa Rica focused heavily on Sea Shepherd partnerships with police, as opposed to confrontations with them.<sup>472</sup> Further, I argue that this mobilization of direct enforcement belongs to colonial and racial narratives that tokenized and undermined local activist initiatives, supported police despite the lack of enforcement initiatives, and refused to challenge the construction of APM terminals or aid other conservation organizations attempting to do so. This mobilization of direct enforcement belongs to colonial and racial narratives that tokenize and undermine local activist initiatives.

Sea Shepherd's operation Jairo appealed to the same concepts of legality, legitimacy, and effectiveness as Eilstrup-Sangiovanni and Phelps Bondaroff's definition of direct enforcement. Setting the stage for how Operation Jairo would operate, the description of the campaign reads:

Although sea turtles are protected by Costa Rican law, poaching remains common in many areas including Moín Beach. Locals steal the eggs from the nests, which are

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<sup>470</sup> "Bad Blood," *Whale Wars: Viking Shores*.

<sup>471</sup> Sea Shepherd Conservation Society, "Pacuare Beach, Costa Rica."

<sup>472</sup> Sea Shepherd Conservation Society, "Our Operation Jairo Campaign Leader..." *Sea Shepherd Conservation Society* (Facebook page), August 7, 2016, <https://www.facebook.com/SeaShepherdConservationSociety/photos/a.510751328948079.107668.507053622651183/1152569501432922/?type=3&theater>. Also see Sea Shepherd Conservation Society, *Sea Shepherd Conservation Society* (Facebook page), July 31, 2016, <https://www.facebook.com/OperationJairo/photos/pcb.1094865587253156/1094865450586503/?type=3&theater>. Also see Sea Shepherd Operation Jairo Campaign, "After threats of a possible. . .," *Sea Shepherd Operation Jairo Campaign* (Facebook page), August 4, 2016, <https://www.facebook.com/OperationJairo/photos/a.848067591932958.1073741828.844230628983321/874751529264564/?type=3&theater>.

believed to be an aphrodisiac, and sell them on the black market in Asia. The turtle egg trade has been linked to drug trafficking and organized crime in this area. Local conservationists are often threatened at gunpoint for trying to protect turtle eggs, and do not feel safe patrolling the beach without police or government protection. While some plans to make this area a protected national park have been proposed and drafted, this area still remains an unprotected hotbed for poaching activities. In the wake of Jairo Mora's death, the organization he worked with canceled beach patrol efforts in this area due to the degree of danger to those involved. However, Sea Shepherd has vowed to continue the work that this brave conservationist [sic] set out to accomplish, and will not leave the turtles of Moín unprotected!<sup>473</sup>

Operation Jairo's description firmly situates the campaign in terms of legality, and thus direct enforcement, using words such as "defense," "protection," "law," "police or government protection" in opposition to the images of "locals steal[ing]," "drug trafficking," "threatened at gunpoint," "unprotected hotbed for poaching activities," and "organized crime."<sup>474</sup> This framing positions SSCS in terms of the similar concepts of legality as Phelps Bondaroff and Eilstrup Sangiovanni by aligning with statist conceptions of legality. Operation Jairo's campaign description also legitimizes and necessitates their campaign not by chastising police or government, as in the GrindStop campaign, but by citing the unwillingness of local conservationists to continue this work. By appealing to statist concepts of legality that portray government forces as the protectors, locals as the drug traffickers, thieves, and criminals, and local conservationist organizations as unwilling, SSCS frames locals (both poachers and conservationists) as the problem. These appeals legitimate Sea Shepherd's claim to enforce law in Costa Rica. Further, in Sea Shepherd's claim that "the turtles of Moín [will not be left] unprotected" alongside claims that other organizations, including local

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<sup>473</sup> Sea Shepherd Conservation Society, "Pacuare Beach, Costa Rica."

<sup>474</sup> Sea Shepherd Conservation Society, "Pacuare Beach, Costa Rica."

conservationists, are abandoning the turtles, SSCS indicates its effectiveness in comparison of other organizations and activists.

The campaign further took on the framing of direct enforcement through using the name “Operation Jairo,” as the name was meant to orient the campaign in specific relation to Costa Rican law that protects advocates and turtles. The name “Jairo” was an attempt on behalf of SSCS to commemorate Jairo Mora Sandoval, a turtle conservationist from Costa Rica who was abducted and murdered in an incident in which three other volunteers were also abducted and raped in 2013.<sup>475</sup> In a publication about Jairo Mora Sandoval on the anniversary of his death, also the official start of the Operation Jairo campaign, Paul Watson, founder of Sea Shepherd, made the following statement:

Jairo had dedicated himself to defending the turtle nests on Moins [sic] Beach from the relentless plundering by the poachers. It was a dangerous mission. In response to death threats he appealed to the Costa Rican government, to the police and to the Coast Guard.

They never responded leaving Jairo to carry on alone and unprotected in his wonderful mission to protect sea turtles. . .

At first the government of Costa Rica tried to dismiss it as an accidental death. . .

Finally after a great deal of international embarrassment the killers were arrested. Seven men were detained to await trial on charges of murder, robbery and rape. The evidence was overwhelming[.] Unfortunately a few months ago the killers were acquitted. Not because the evidence did not hold up but because the evidence was conveniently lost by the police and the prosecutors office. In fact the murder of every single environmentalist or conservationist in Costa Rica has remained unsolved and there have been quite a few such murders. It is extremely dangerous to be a defender of nature in Costa Rica despite the glitzy public relations green-washing of Costa Rica as an environmental utopia. . . . We intend to carry on Jairo’s work and it is difficult considering the hostility of the Costa Rican government but we shall continue nonetheless. Jairo Mora Sandoval is and will always be an inspiration to all conservationists because of his selfless dedication, his courage and his passion. . . This year we intend to rescue thousands more. Eating turtle eggs is something the

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<sup>475</sup> Lindsay Fendt, "Why Jairo Died," *Tico Times*, September 2, 2013, <http://www.ticotimes.net/2013/09/03/why-jairo-died>.

world can no longer afford. It is a crime against nature and a crime against the future of humanity.<sup>476</sup>

Watson's statement gives the impression that Operation Jairo was a way to honour Jairo Mora Sandoval.<sup>477</sup> However, SSCS's use of Mora Sandoval was arguably about using the incident to challenge enforcement practices in Costa Rica especially when it revolved around conservation initiatives. The quotation further aligns the campaign with direct enforcement through its larger appeal to "crimes against nature and the future of humanity,"<sup>478</sup> which is similar to the phrasing used to describe Operation GrindStop. Such framing attempts to further align Sea Shepherd's actions with enforcement. Sea Shepherd's self-ascribed authority to enforce these laws contributes to norm entrepreneurship. SSCS's norm entrepreneurship challenges the failures of government to enforce laws, especially with regard to the murder of conservationists upholding conservation law. The enforcement aspect of the campaign, alongside the use of Jairo Mora Sandoval's name, was further outlined in Sea Shepherd's 2016 announcement of "Operation Jairo II," which stated,

From September 1 to December 1, Operation Jairo II will move to Costa Rica where ground campaign volunteers will work in Jaco to protect primarily olive ridley and green sea turtles. The Jaco police are teaming with Sea Shepherd volunteers to protect

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<sup>476</sup> Paul Watson, "We Will Never Forget Jairo Mora Sandoval," Captain Paul Watson (Facebook page), June 1, 2015, <https://www.facebook.com/captpaulwatson/photos/a.443115070931.234296.155430570931/10153249256360932/?type=1&theater>.

<sup>477</sup> Sea Shepherd Conservation Society, "Sea Shepherd Launches *Operation Jairo*, Sea Turtle Defense Campaign," *Sea Shepherd Conservation Society*, May 31, 2015, <http://www.seashepherd.org/news-and-media/2015/05/31/sea-shepherd-launches-operation-jairo-sea-turtle-defense-campaign-1696>.

<sup>478</sup> Paul Watson, "We Will Never Forget Jairo Mora Sandoval."



nesting females and nests from poachers. Nests will be relocated to a hatchery run by the Jaco police force.<sup>479</sup>

This release emphasizes the enforcement-related aspect to Sea Shepherd's sea turtle conservation campaigns. Further, the statement denotes a development from the preceding years' campaigns; The campaign increases and solidifies its dependence and support of police efforts from the year before. Despite the earlier vow not to leave Moín's sea turtles unprotected and to continue Mora Sandoval's legacy on the caribbean side of the campaign, SSCS moves the campaign to the Pacific, still using Mora Sandoval's name and legacy in the process despite the fact that SSCS is leaving the coast that Mora Sandoval had fought so hard to protect.

#### **4.6 Operation Jairo and Police**

*The second night I am on campaign. The patrol group is moving slowly. Several crew members have suffered twisted and sprained ankles and are moving quite slowly as a result. It is pouring, but it has been a good patrol so far—we feel safer as we are on the beach Pacuare, a relatively calmer and safer area to Moín. On account of the rain, three of us break off of the main group to get the camera equipment in some rice to dry it out. Instead of walking on our regular beach path, we dip into the forest so our equipment has some protection from the rain and we scramble over branches, vines, and barbed wire in the pitch black. A group of adolescents run past us, yelling at us as they run down the beach.*

*Further down the trail, a group of about seven individuals, whom we assume to be poachers as they carry the bamboo poles and branches to mark turtle's nesting sites, approach us on the path. We greet them but once they have almost passed, they turn on us and immediately threaten to attack us.*

*The next thing I know, I am being pulled into the forest by the other media crew member while being pursued by the individuals who had come upon us. I look up to see a gun being fired, and individuals disappear into the bushes. We crawl further up the river and hide behind a bush, whispering what we feared were our goodbyes. We wait. About ten minutes later, the Sea Shepherd security guard and another crew member come out of the trees, calling my name. He clarifies it had been he who has*

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<sup>479</sup> Sea Shepherd Conservation Society, "Sea Shepherd Announces Operation Jairo II," *Sea Shepherd Conservation Society*, June 7, 2016, <http://www.seashepherd.org/news-and-media/2016/06/07/sea-shepherd-announces-operation-jairo-ii-1821>.

*fired into the ground. He says we need to rush to the beach and get back to camp immediately, as the individuals who attacked us are reconvening. We rejoin the group on the beach and run as fast as we can. It is at this point that an individual from another organization storms onto the beach, shouting at us that Sea Shepherd's advocacy is unethical and disrespectful to the community, intimating that Sea Shepherd finally got what it wanted. For fear of the poachers reconvening, the group ignores her shouts and runs back to base camp.*

*After about 10 minutes, we realize we are being pursued by individuals from each side—flashlights coming from every direction. A pursuer with a gun shouts at our security guards that they will do to us what was done to Jairo if we do not leave Pacuare. With neither satellite phone nor reception, our team retreats below the concrete level in the house to sleep while the security guards keep watch. The encounter is covered by the Tico Times,<sup>480</sup> Outside Magazine,<sup>481</sup> MongaBay,<sup>482</sup> Yahoo News,<sup>483</sup> Channel 7 (Teletica),<sup>484</sup> The Costa Rica Star,<sup>485</sup> A.M. Costa Rica,<sup>486</sup> and La Nación.<sup>487</sup>*

*Shortly after the attack, our Operation Jairo crew has moved from being on Pacuare to being stationed in Moín. We are told it would be tactically better for us, as we*

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<sup>480</sup> Zach Dyer, "Following Threats, Poachers Allegedly Attack Sea Turtle Conservationists in Costa Rica, Sea Shepherd Says," *Tico Times*, June 26, 2015,

<http://www.ticotimes.net/2015/06/26/sea-turtle-volunteers-reportedly-attacked-costa-rica>.

<sup>481</sup> "Poachers Attack Activists in Costa Rica," *Outside Online*, July 29, 2015,

<http://www.outsideonline.com/1995326/poachers-attack-activists-costa-rica>.

<sup>482</sup> Gaworecki, Mike. "Sea Turtle Conservationists Attacked in Costa Rica." *Mongabay*, July 16, 2015. <https://news.mongabay.com/2015/07/sea-turtle-conservationists-attacked-in-costa-rica/>.

<sup>483</sup> "Environmentalists Attacked for Protecting One of the Ocean's most Endangered Animals," *Yahoo! News*, July 2, 2015, <https://www.yahoo.com/news/environmentalists-attacked-protecting-one-oceans-most-endangered-animals-163557025.html?ref=gs>.

<sup>484</sup> "Miembros De Sea Shepherd Denuncian Ataque a Balazos En Siquirres," *Teletica*, June 26, 2015, <http://www.teletica.com/Noticias/94821-Miembros-de-Sea-Shepherd-denuncian-ataque-a-balazos-en-Siquirres.note.aspx>.

<sup>485</sup> Jaime Lopez, "Sea Shepherd Volunteers Violently Attacked in Costa Rica," *The Costa Rica Star*, June 28, 2015, <http://news.co.cr/sea-shepherd-volunteers-violently-attacked-in-costa-rica/39836/>.

<sup>486</sup> "Turtle Volunteers Report Attack by Poachers," *A.M. Costa Rica*, June 29, 2015, [https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwiQyc7b8OzPAhXGIlQKHQNKBlgQFggsMAI&url=http%3A%2F%2Famcostaricaarchives.com%2F2015%2F06%2Fturtle-volunteers-report-attack-by-poachers%2F&usg=AFQjCNF\\_X-zT63vedB0Rg0ccGCUQJITw4A&sig2=VhWKgZACCB4LRjD2ORS\\_yQ](https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwiQyc7b8OzPAhXGIlQKHQNKBlgQFggsMAI&url=http%3A%2F%2Famcostaricaarchives.com%2F2015%2F06%2Fturtle-volunteers-report-attack-by-poachers%2F&usg=AFQjCNF_X-zT63vedB0Rg0ccGCUQJITw4A&sig2=VhWKgZACCB4LRjD2ORS_yQ).

<sup>487</sup> Alejandro Nerdrick, "Ambientalistas Denuncian Ataque a Balazos En Playa," *La Nación*, June 27, 2015, [http://www.nacion.com/sucesos/crimenes-asaltos/Ambientalistas-denuncian-ataque-balazos-playa\\_0\\_1496250391.html](http://www.nacion.com/sucesos/crimenes-asaltos/Ambientalistas-denuncian-ataque-balazos-playa_0_1496250391.html).

*could patrol on Moín by car instead of by boat, eliminating the use of the boat we had been using, which had continually been breaking down and stranding us. A news agency arrives to cover the campaign story. Like many nights since the attack, the police show up to patrol with us on a regular basis. We pick up the guards hired by Sea Shepherd for our patrols from the house beside another conservationist camp on our way there—a Costa Rican campaign called Operación Moín. Channel 7 conducts a few interviews between police and Sea Shepherds. Nobody mentions Operación Moín or even notices that their camp exists. The Sea Shepherds continue down the road, followed by a convoy including the largest television channel in Costa Rica, the police force, and hired guards in tow, leaving Operación Moín's camp dark.*

One can argue that Sea Shepherd's direct enforcement campaign in Costa Rica was, in part, a "civilizing mission." Evidence of this claim can be seen in its publicization of efforts by and collaboration with police and governmental forces. Although earlier reports on the campaign from Watson demonized the Costa Rican government and police forces, Sea Shepherd's sentiments, mirroring police and governmental publications, dually demonized local peoples, including local activists, in ways that emphasized the legitimacy of the police and Sea Shepherd's joint efforts. Although Watson's hopes for Operation Jairo may have been to challenge corrupt enforcement structures of Costa Rica that continually fail activists, the campaign relied upon the cooperation and support of the same police forces that continue to be part of the problem. Several Sea Shepherd patrols on Moín were accompanied by police. Further, Sea Shepherd continually emphasized the organization's collaboration with police in positive terms through the campaign; Press releases and commentaries emphasized Sea Shepherd and police collaboration, Sea Shepherd made explicit releases thanking the police<sup>488</sup> and crew blogs stating they were encouraged by increased police presence during

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<sup>488</sup> Operation Jairo Costa Rica, "Update from Costa Rica," *Operation Jairo Costa Rica* (Facebook Page), July 11, 2016, <https://www.facebook.com/OperationJairo/photos/a.848067591932958.1073741828.844230628983321/861715737234810/?type=3&theater>.

the campaign.<sup>489</sup> Operation Jairo's 2016 installment of Operation Jairo continued this aspect, sharing multiple photos, albums, and stories of Sea Shepherd volunteers alongside the Jacó police department helping the police to build the Jacó police hatchery,<sup>490</sup> and Sea Shepherd representatives shaking hands with the Chief of Garabito's police department in Jacó to discuss the partnership between the Sea Shepherd activists and the police.<sup>491</sup>

Pairing with Costa Rican police (Fuerza Publica) after publishing allegations on the mishandling of evidence of the murder of Mora Sandoval, and Watson's own aforementioned case with the Costa Rican government, could be seen to encourage police and contribute change to the system of impunity.<sup>492</sup> However, limiting criticisms to these failures reinforces perceptions that Costa Rica's failure to protect activists occur only on an ad hoc basis and are non-systematic. Moreover, Sea Shepherd's sustained messages of collaboration with police over social media and news stations in Costa Rica act as propaganda for Costa Rican law enforcement. While collaboration with police may earn Sea Shepherd legitimacy in the eyes of Western donors, Sea Shepherd's propaganda obscures Costa Rica's enforcement history, which is steeped in developmentalist, anthropocentric, capitalist, colonial, and racist realities of Costa Rican enforcement practices. These realities include a history of state-led efforts to

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<sup>489</sup> Jessica Cowie, "My Name is Jessica," Sea Shepherd Operation Jairo (Facebook page), August 15, 2015, <https://www.facebook.com/OperationJairo/photos/a.873164232756627.1073741830.844230628983321/879765715429812/?type=3&theater>.

<sup>490</sup> Sea Shepherd Conservation Society, *Sea Shepherd Conservation Society* (Facebook page), July 31, 2016.

<sup>491</sup> Sea Shepherd Conservation Society, "Our Operation Jairo Campaign Leader..."

<sup>492</sup> Jessica Cowie, "My Name is Jessica."

colonize and murder land defenders, conservationists, and workers' rights activists within Costa Rica.

Sea Shepherd's stance that their collaboration with police is the solution in contrast to local activists and poachers, who are framed as the problem, means that the discussion of systemic issues, including the ways that development, capitalism, neoliberalism, and trade impact the conservation of turtles or even influence enforcement in Costa Rica, remain peripheral to the public sphere. Both Sea Shepherd and Costa Rican Police Force reduce the poaching of eggs and turtles, and the targeting and murder of activists, to the actions of a few individuals, local poachers framed as criminals. For example, Sea Shepherd continually highlighted the effects of lone poachers on Sea Turtle populations: SSCS published a photo they took of one poacher "caught red-handed"<sup>493</sup> with his hand in a turtle nest and attributed an attack on Sea Shepherd to poachers even though the attackers were never identified.<sup>494</sup> These efforts emphasize the illegality of poaching and the detrimental effects poachers have, deflecting attention away from development; Governmental and police forces, as well, use press releases identify the threat to turtle populations nesting on Moín as poachers, but not large industries such as APM terminals, pollution, or pesticides, threats discussed earlier in this chapter. Further, Sea Shepherd's identification of locals as the problem and local

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<sup>493</sup> Sea Shepherd Conservation Society, "Sea Shepherd Volunteers Save Nesting Sea Turtle and Eggs from Poachers in Costa Rica," *Sea Shepherd Conservation Society*, June 7, 2015, <http://www.seashepherd.org/news-and-media/2015/06/07/sea-shepherd-volunteers-save-nesting-sea-turtle-and-eggs-from-poachers-in-costa-rica-1698>.

<sup>494</sup> Sea Shepherd Conservation Society, "Sea Shepherd 'Operation Jairo' Volunteers Attacked by Armed Sea Turtle Poachers in Costa Rica; Two Volunteers Sustained Minor Injuries," *Sea Shepherd Conservation Society*, June 26, 2015, <http://www.seashepherd.org/news-and-media/2015/06/26/operation-jairo-volunteers-attacked-by-armed-sea-turtle-poachers-in-costa-rica-1712>.

activists in Costa Rica as afraid<sup>495</sup> and imposters<sup>496</sup> compliment police and governmental statements that local conservationists are ineffective. For example, after Mora Sandoval's murder, the police department issued a statement alleging that conservationists were at fault for his murder because they had used collaborative approaches to activism, including working with poachers and/or their children.<sup>497</sup> In the police's view, working with locals meant that conservationists had brought this upon themselves.<sup>498</sup> Costa Rican environment minister Rene Castro's description of Costa Rican conservationists as "radicals," "green crazy guys," and "very small groups of people, in the city" to attempt to reduce their significance.<sup>499</sup> This view of local activists is contradicted by the fact that hiring locals is standard practice in conservation work that is reported to create some of the most dedicated conservationists.<sup>500</sup> Furthermore, this narrative ignores and silences stories such as those of Luís Esquivel, who grew up learning to poach turtles, but is now a conservationist who has helped create the Asociación Salvemos las Tortugas de Parímina (ASTOP),<sup>501</sup> and Gaby, another ex-poacher working with Casa del Coco Sea Turtle Conservation Project on

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<sup>495</sup> Sea Shepherd Conservation Society, "Moín Beach, Costa Rica," *Sea Shepherd Conservation Society*, accessed April 25, 2015, <https://web.archive.org/web/20150425205359/http://www.seashepherd.org/jairo/costa-rica.html>.

<sup>496</sup> Paul Watson, "Outing an Imposter," *Paul Watson* (Facebook page), August 3, 2016, <https://www.facebook.com/paul.watson.1426/posts/10155028931138362>.

<sup>497</sup> Jennie Erin Smith, "Murder on Moín Beach."

<sup>498</sup> Jennie Erin Smith, "Murder on Moín Beach."

<sup>499</sup> Lindsay Fendt, "Violence Plagues Costa Rican Conservationists."

<sup>500</sup> Jennie Erin Smith, "Murder on Moín Beach."

<sup>501</sup> Adriana Fuentes Duarte, "Saqueadores De Huevos De Tortuga Se Alian Con Narcos En Limón." *La Nación*, July 31, 2016, [http://www.nacion.com/sucesos/narcotrafico/Saqueadores-huevos-tortuga-narcos-Limon\\_0\\_1575442497.html](http://www.nacion.com/sucesos/narcotrafico/Saqueadores-huevos-tortuga-narcos-Limon_0_1575442497.html).

Pacuare.<sup>502</sup>

Sea Shepherd's endorsement of police officers can be seen to serve the same function as the arrests after the murder of Mora Sandoval, which were described as "a sideshow" that had the effect of "reduc[ing] international pressure."<sup>503</sup> Sea Shepherd's public recognition of the police officers serves to downplay the differences between the ways that *Fuerza Publica* handles cases with international exposure versus those which receives relatively little international attention.

Sea Shepherd's collaboration with police also contradicts its stated aim to act in memory of Mora Sandoval. Mora Sandoval was killed in the same year that police chief Erick Calderón sent the sanctuary, at which Mora Sandoval was volunteering, a notice that police "would no longer participate in beach patrols."<sup>504</sup> Police restarted these patrols only after news of Mora Sandoval's murder came to light in the press. This move can be seen as evidence that the lack of police enforcement contributed to the death of Mora Sandoval. Mora Sandoval himself said, "If an officer says he's helping us, he's lying."<sup>505</sup> Thanking police for their all-to-late intervention in a campaign named after him and meant to continue his mission seems unfaithful to his memory.

Sea Shepherd further failed to call attention to the discrepancy between the fact that they hired private security guards while local conservationists are beaten, kidnapped, raped, and murdered. These guards cost Sea Shepherd's donors a total of 24 000 USD of funding.

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<sup>502</sup> "Our Board of Directors," *Casa de Coco*, Accessed October 20, 2016, <http://www.casadecoco.org/board-of-directors>.

<sup>503</sup> Jennie Erin Smith, "Murder on Moín Beach."

<sup>504</sup> Lindsay Fendt, "Little has Changed 1 Year After Slaying of Costa Rica Conservationist Jairo Mora," *Tico Times*, May 30, 2014, <http://www.ticotimes.net/2014/05/30/a-beach-unchanged>.

<sup>505</sup> Jennie Erin Smith, "Murder on Moín Beach."

Not only does this suggest the lack of protection afforded by police, but also speaks to the lack of protection that most local activists have in Costa Rica.<sup>506</sup> This fact is only further representative of the inequalities experienced by local conservationists and Sea Shepherd's largely international fleet of conservationists.

In summary, Sea Shepherd's collaboration with police on both Operation Jairo, and later Operation Jairo II, appeal to Western concepts of legitimacy and legality. This collaboration imparts increased authority to police and state structures that continually fail conservationists.

#### **4.7 Operation Jairo and the North-South Divide**

Operation Jairo was run by Sea Shepherd USA (although a transnational organization, Sea Shepherd does have groups in different countries, and an international body called Sea Shepherd Global). As a North American organization, Sea Shepherd USA's Operation Jairo in Costa Rica is part of a trajectory of campaigns in which North American NGOs or transnational advocacy groups (TAGs) go to central America as voluntourists to protect Sea Turtles, or advocate for legal changes regarding Sea Turtle protection in Costa Rica. Lisa Campbell argues that, on these missions, North American organizations using enforcement-related tactics are often ineffective and trivialize Central American concerns:

rather than try to understand cultural meanings associated with sea turtles, force is sometimes used to make *them* [Central Americans] do what *we* [North American organizations] would, or education is used to get *them* to agree with *us*. These approaches underestimate the importance of cultural norms, and they can fall short of

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<sup>506</sup> Sea Shepherd Operation Jairo Campaign, "Sea Turtles Need You!," *Sea Shepherd Operation Jairo Campaign* (Facebook page), July 1, 2016, <https://www.facebook.com/OperationJairo/photos/a.848067591932958.1073741828.844230628983321/856991741040543/?type=3&theater>.



their long-term conservation goals as a result.<sup>507</sup>

In addition to appearing dismissive of cultural meanings and norms in these contexts, North American organizations fail to consider how Western constructs. For example, Euro-American Organizations' destruction of the rainforests and coast lines for purposes of tourism or resource extraction or exportation have "shaped sea turtle consumption; economies that might previously have used turtles for subsistence purposes now have cash needs that may be met through selling sea turtles and their by-products."<sup>508</sup>

The civilizing and developmentalist narrative of Operation Jairo, and the demonization of local peoples as the problem is clear in Sea Shepherd's indictment of them. This claim follows the larger tendency in turtle conservation movements to blame locals, when there are larger, transnational powers at play in the destruction of Moín. Mauricio Alvarez argues that the threats facing conservationists in Costa Rica are largely structural and are tied to transnational interests:

No es coincidencia. El problema es estructural: conflictos por tierras y conflictos ambientales han sido parte de un círculo de violencia que nos aleja de cualquier mito de paz y respeto a los derechos humanos en Costa Rica. Igual suerte corrieron Antonio Zúñiga, Olof Wessberg, Jorge Aguilar, Óscar Fallas, Jaime Bustamante, María del Mar Cordero, David Maradiaga, Kimberley Blackwell y Diego Armando Saborío defensores y defensoras del ambiente asesinados entre 1975 y 2014. Todos y todos ellos han sido asesinados por un terrorismo privado, particular y en algunos casos por intereses ligados a las transnacionales.<sup>509</sup>

It is no coincidence. The problem is structural: conflicts over land and environmental conflicts have been part of a cycle of violence that keeps us from any myth of peace and respect for human rights in Costa Rica. Antonio Zuniga, Olof Wessberg, Jorge Aguilar, Oscar Fallas, Jaime Bustamante, Maria del Mar Lamb, David Maradiaga, Kimberley Blackwell and Diego Armando Saborío, environmental defenders killed between 1975 and 2014, suffered this same fate. Each and every one of them have been killed by private industry terrorism, which in some cases is linked to

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<sup>507</sup> Lisa M. Campbell, "Contemporary culture, use, and conservation of sea turtles," 303.

<sup>508</sup> *Ibid.*, 306.

<sup>509</sup> Mauricio Álvarez, "Jairo Mora y El Terrorismo En Costa Rica."

transnational interests.<sup>510</sup>

These transnational interests are clear in the construction of APM terminals' new megaport on the beach of Moín. Reporting on the construction, Ligia Fallas wrote an article about her experience finding a sea turtle flipper nearby the dredger operating at APM terminals and mentioned that Sea Shepherd had also been there on the day monitoring the construction.<sup>511</sup> Despite how Sea Shepherds, myself included, had been on the beach that day taking drone footage of the destruction of the beach as a result of the terminal construction, the Official Spokesperson for Sea Shepherd Costa Rica denied that Sea Shepherd had any judgements about APM terminals. Serendero stated,

las declaraciones de la señora (Ligia) Fallas acerca de juicios emitidos por voluntarios de Sea Shepherd sobre APM Terminals, no son veraces.<sup>512</sup>

The declarations of Ligia Fallas about judgements made by Sea Shepherd volunteers on APM terminals are not true.<sup>513</sup>

Sea Shepherd's unwillingness to comment on the threats posed by APM terminals undermined further possibility of collaboration among Sea Shepherd, local communities, conservationists, and union members such as Bloque Verde, Federación Conservacionista de Costa Rica (FECON), Federación de Estudiantes de la Universidad de Costa Rica (FEUCR),<sup>514</sup> The Japdeva worker's union (SINTRAJAP), Juventud Activa de Conservación

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<sup>510</sup> My translation.

<sup>511</sup> William Aguilar, "Denuncian Daños Ambientales Por Dragado De Nuevo Muelle De Moín," *El Periodico*, July 28, 2015, <http://elperiodicocr.com/denuncian-danos-ambientales-por-dragado-de-nuevo-muelle-de-moin/>.

<sup>512</sup> Jorge Serendero, "Sea Shepherd Aclara Que no Tiene Lazos Con Operación Moín Ni El Frente Amplio," *El Periodico*, July 31, 2015, <http://elperiodicocr.com/sea-shepherd-aclara-que-no-tiene-lazos-con-operacion-moin-ni-el-frente-amplio/>.

<sup>513</sup> My translation.

<sup>514</sup> Federación de Estudiantes de la Universidad de Costa Rica, FEUCR (Facebook Page), accessed October 21, 2016, <https://www.facebook.com/FEUCR/>.

Ambiental Nacional (JACANA),<sup>515</sup> and Fundación Macaw (Operación Moín).<sup>516</sup> The failure for SSCS to support local activists against APM terminals conceals larger power structures at play in the threats to turtles, conservationists, and local people. It also betrays the campaign's focus of honouring Mora Sandoval. Vanessa Lizano, turtle conservationist and good friend of Mora Sandoval, argues that the interests of APM terminals may have been responsible for Mora Sandoval's murder and the diminished police commitments to protecting local activists months before the murder: "no one connected to the megaport wanted to make it easy to find an endangered species on Moín."<sup>517</sup> Alvarez holds a similar sentiment, arguing,

Para FECON, cada día es más evidente que las inversiones y megaproyectos de infraestructura son incuestionables . . . en el actual gobierno. La lista ya es muy larga como para creer que son casos aislados: aval a la destrucción del humedal Cariari, desalojo del refugio de vida silvestre y hogar de Jairo Mora, el retorcido aval ambiental al muelle de APM terminal, la eliminación de la moratoria a la incineración debido a la presión de alcaldes del "PLUSC" , el impulso a la represa Diquís, y muchos otros proyectos hidroeléctricas disfrazándolos y atenuándolos con una Directriz de consulta indígena.<sup>518</sup>

To FECON, it is increasingly clear that investment and infrastructure megaprojects are unquestioned. . . in the current government. The list is already too long to believe that they are isolated cases: guarantee the destruction of wetland Cariari, eviction wildlife refuge and home to Jairo Mora, twisting environmental endorsement Pier APM terminal, eliminating the moratorium incineration due to pressure from mayors "PLUSC" the impulse to Diquís dam, and many other hydroelectric projects masquerading as indigenous consultation.<sup>519</sup>

While Sea Shepherd had vowed to protect Moín from the sea turtle poachers, Sea Shepherd's failure to indict or target APM terminals with the destruction of the beach suggests an

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<sup>515</sup> Adriana Fuentes Duarte, "Saqueadores De Huevos De Tortuga."

<sup>516</sup> Operación Moín, "Operación Moín," *Operación Moín* (Facebook page), accessed October 22, 2016, <https://www.facebook.com/operacionmoincr/?fref=ts>.

<sup>517</sup> Jennie Erin Smith, "Murder on Moín Beach."

<sup>518</sup> "Humedales De Costa Rica Ya no Cuentan Con Toda La Protección Ambiental,"

*Federación Ecologista*, September 13, 2016,

[http://www.feconcr.org/index.php?option=com\\_content&task=view&id=2573&Itemid=76](http://www.feconcr.org/index.php?option=com_content&task=view&id=2573&Itemid=76).

<sup>519</sup> My translation.

unwillingness on behalf of the organization to target a large, Western company, despite the port's construction being in contravention of the Costa Rican constitution,<sup>520</sup> under criticism from local conservationists, and local labor unions. Such unwillingness is typical of the North-South dimension of Sea Turtle conservation identified by Campbell: large NGOs often appeal to their North American support base (both volunteer and donor), given Western cultures "veneration of 'charismatic megafauna,'"<sup>521</sup> without identifying the ways that capitalism and neoliberal food systems (such as the mass export of pineapples and bananas ports are being built to export) pose the single greatest threat to turtles, other species in the area, the coast line, and the local people who live there.

#### 4.8 Operation Jairo and Grassroots Initiatives

*I am on the beach. I have spent the day filming Operación Moín. During the day, we have found a turtle flipper. Operación Moín states that the flipper has probably been torn from the body of a sea turtle by the dredger passing in front of the crucial sea turtle nesting beach, which suctions up the bottom sediments and anything that comes with them and relocates what has become a mixed sludge to designated dumping areas of the beach.<sup>522</sup> Tears are staining the Operación Moín volunteer's cheeks as they bury the flipper in grave ceremony. I hope the turtle has found some peace.*

Sea Shepherd's alienation of local activists was exacerbated through a press release that denied Sea Shepherd had ever been on the beach with Operación Moín. The article itself made no mention of the events that had transpired that afternoon, relating the very event in

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<sup>520</sup> Ibid.

<sup>521</sup> Lisa M. Campbell, "Contemporary culture," 306.

<sup>522</sup> For information about how dredgers can amputate limbs off of sea turtles passing by in the water, see Daphne Wrobel Goldberg, Daniella Torres de Almeida, Frederico Tognin, Gustavo Gilles Lopez, Gabriella Tiradentes Pizetta, Nilamon de Oliveira Leite Junior, and Roberto Sforza. "Hopper Dredging Impacts."

which I participated and above described.<sup>523</sup> Despite the event having taken place, Sea Shepherd official spokesperson Jorge Serendero stated, emphatically,

Lo único que sucedió fue un cruce casual en el camino y no hubo más contacto que un saludo. . . Sea Shepherd no tiene lazo alguno con Operación Moín, el Frente Amplio ni ninguna otra tendencia política.<sup>524</sup>

The only thing that happened was a casual crossing on the road and there was no more contact than a greeting. . . Sea Shepherd has no link with Operación Moín, the Broad Front, or any other political tendency.<sup>525</sup>

Sea Shepherd's lying and defensiveness about working alongside any other groups supported the myth that other conservationists had abandoned the sea turtles of Moín, as Sea Shepherd stated in its initial campaign announcement. Far from the tactics of Sea Shepherd's Operation Pacuare the year before, which stated it involved locals and depended on them to patrol the beach with them, hired local cooks, and worked with local organizations such as LAST, Operation Jairo constructed a myth that ignored and delegitimized the work of other organizations on the beaches, further alienating local organizations. The delegitimization of local activists materialized in Watson's public defamation of the founder of Fundacion Macaw and Operación Moín, Erick Saldaña. Watson offered two slanderous publications on former volunteer for Sea Shepherd Conservation Society, one stating,

There is a man in Costa Rica pretending to be the Founder and Director of Sea Shepherd Costa Rica. He is not. He is appealing for financial support to protect turtles in Costa Rica claiming to represent Sea Shepherd while at the same in other forums, denouncing myself, Sea Shepherd, and real Sea Shepherd volunteers in Costa Rica who are defending turtle nests from poachers. His name is Erick Saldaña He has his own organization called the Macaw foundation. He is saying he protects turtles in

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<sup>523</sup> William Aguilar, "Denuncian Daños Ambientales."

<sup>524</sup> Jorge Serendero, "Sea Shepherd Aclara."

<sup>525</sup> My translation.

Costa Rica and this maybe [sic] true, BUT he does not represent Sea Shepherd. . . Any statements to the contrary by him are false or misleading.<sup>526</sup>

Sea Shepherds on Facebook promptly responded stating that they would unfriend him, implying that Saldaña was mentally unsound, and applauding Watson for publicly denouncing him.<sup>527</sup> Watson's claims fall into Sea Shepherd's tendency to demonize locals and delegitimize local conservationists. Further, Watson's claims, despite assertions that they are not meant to impact his conservation work, nonetheless have a significant impact not only on Saldaña's reputation as an activist in Costa Rica, but also of his organization, Fundación Macaw, and group Operación Moín, both of which have been active on Moín since the winter of 2015. This framing demonizes local organizations, simply reinforcing the north-south hierarchy and the legitimacy of Sea Shepherd. Furthermore, it unfairly demonizes local organizations whose largest donations have included food donations,<sup>528</sup> who advocate by collaborating with community, and who team up with other organizations (such as the University of Costa Rica and Frente Amplio),<sup>529</sup> and who patrol the beach months before Sea Shepherd's arrival in the 2015 turtle nesting season without security guards.

#### **4.9 The Use of Jairo Mora Sandoval's Name for Operation Jairo and Operation Jairo II**

In a commentary by Watson made the week of Sea Shepherd's announcement of Operation Jairo, Watson highlighted the work of campaign that included a series of billboards

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<sup>526</sup> Paul Watson, "Outing an Imposter."

<sup>527</sup> Ibid.

<sup>528</sup> Operación Moín, "Nuestros Voluntarios En Moín Necesitan De Su Ayuda," *Operación Moín* (Facebook Page), February 19, 2016, <https://www.facebook.com/operacionmoincr/photos/a.372230092963036.1073741828.372183946300984/470096823176362/?type=3>.

<sup>529</sup> Operación Moín, "Operación Moín."

of Watson's face posted around Costa Rica and three focus-pieces on the altercation, for which Watson was charged, between the *Vardero I* when the *Ocean Warrior* aired on Channel 7. This billboard and video campaign was aimed at convincing the Costa Rican people of Watson's innocence.<sup>530</sup> Watson states,

Costa Rica is a beautiful nation with incredible bio-diversity and friendly people, but for many years this country has been plagued with political corruption from leaders whose agendas do not represent the people—and certainly not the environment. Unsolved murders of conservationists, turtle egg poaching, illegal shark finning, the convenient loss of evidence in the trial of Jairo Mora Sandoval that resulted in his killers walking free. Costa Rica has great public relations that feeds the myth of an ecologically conscious nation but it remains a country where narco-poachers operate with impunity and where many environmentalists have been murdered without their killers found, or if found, released on some technicality like the convenient loss of evidence.<sup>531</sup>

Watson's statement points to sustained injustices against conservationists, himself included, in Costa Rica and how these injustices play into a concept of nationhood built upon cruelty towards animals and disregard of conservationists. Based on these claims, Watson contends that Sea Shepherd is essential, legitimate, and legal in Costa Rica:

Sea Shepherd is needed to address issues diminishing sharks and sea turtles in Costa Rica but the Costa Rican government has refused their assistance to protect the turtle beaches and to protect the fragile waters around Cocos Island. Sea Shepherd is tired of being refused as the poachers carry on with their crimes unopposed. Beginning June 1st, Sea Shepherd will have volunteers on Pacuare and Moin beaches protecting turtle eggs and nests, and will not let Jairo's murder deter protection of the nests. Moin Beach is the place where Jairo was murdered two years ago. . . Sea Shepherd will not let the Costa Rican government forget the name "Jairo Mora Sandoval," and will do all in its power to further Jairo's incredible conservation efforts, the very courageous efforts that cost him his life at the young age of 26.<sup>532</sup>

I argue that the use of Jairo Mora Sandoval's name reinforces, rather than challenges how North American initiatives at turtle conservation are seen as an "imposition from

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<sup>530</sup> Paul Watson, "My Message to the Government of Costa Rica."

<sup>531</sup> Ibid.

<sup>532</sup> Ibid.

outsiders.”<sup>533</sup> The use of Mora Sandoval’s name, regardless of whether or not it continues the work he was doing, appropriates his murder to serve the ends of a North-American controlled campaign. The use of Mora Sandoval’s name in Operation Jairo and Opeartion Jairo II also comes in stark contrast to its use in Jairo Mora Sandoval Foundation, which was started by his family, Ericka Mora Sandoval, Fernando Sandoval Sandoval, Elki Mora Sandoval, Helen Mora Sandoval, and Rafael Mora. The foundation’s video states,

The family of Jairo Mora intend to properly manage the use of his name in order to continue his work as he would have intended and use the acclaim attached to their son’s work and sacrifice to protect the wildlife he was martyred for. The vision aims to protect sea turtles and other marine and terrestrial wildlife and their accompanying habitat, with special focus on the Costa Rican stock of the leatherback sea turtle nesting along the Caribbean shores. The mission will include the construction of successful sea turtle projects to protect nesting leatherbacks and their hatchlings, while combating poaching behaviors with a unified, community-backed net of conservationists and biologists from the Ministry of Energy and the Environment of Costa Rica.<sup>534</sup>

The subtext of this statement is in protest of the ways that Jairo Mora Sandoval’s name has been used by other organizations, specifically, Sea Shepherd, whose movements, in contrast, are neither community-backed nor coalition-based. Further, the above approach speaks to a unified community-based net of conservationists, which is very different than the parachute-activism-like direct enforcement of SSCS’s Operation Jairo campaign. Such use of Jairo’s name aligns with the same way that oppression manifests when large nonprofits co-opt Indigenous liberation struggles:

Those who co-opt are only there to advance self-interests (usually it’s either notoriety or financial). As these “allies” seek to impose their agenda, they out themselves. The ‘radical’ more militant-than-thou “grassroots” organizers are keen on seeking out

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<sup>533</sup> Lindsay Fendt, "The L.A.S.T Stand," *Tico Times*, February 18, 2015, <http://www.ticotimes.net/l/the-l-a-s-t-stand>.

<sup>534</sup> Jairo Mora Sandoval Foundation, "Welcome to the Jairo Mora Sandoval Foundation," *Jairo Mora Sandoval Foundation*, accessed October 21, 2016, <http://www.jairomora.com/#!/home/xj3f0>.



“sexy” issues to co-opt (for notoriety/ego/super ally/most radical ally) and they set the terms of engagement or dictate what struggles get amplified or marginalized irregardless of whose homelands they’re operating on. The nonprofit establishment or non-profit industrial complex (NPIC) also seeks out ‘sexy’ or ‘fundable’ issues to co-opt and exploit as these are ripe for the grant funding that they covet. Too often, Indigenous liberation struggles for life and land, by nature, directly confront the entire framework to which this colonial & capitalist society is based on. This is threatening to potential capitalist funders so some groups are forced to compromise radical or liberatory work for funding, others become alienated and further invisibilized or subordinated to tokenism. Co-opters most often show up to the fight when the battle has already escalated and it’s a little too late.<sup>535</sup>

The tokenisation of Mora Sandoval again on the 2016 campaign is also questionable, as Jacó is on the Pacific side of Costa Rica, on the opposite side of the country to Moín, where Jairo Mora Sandoval died protecting and Sea Shepherd vowed to protect in his name. While the use of his name on the 2016 campaign could be seen to commemorate the legacy he left, it’s appropriation further instrumentalizes Jairo Mora Sandoval’s story in keeping with Sea Shepherd’s narrative of enforcement practices and working emboldening state conservation efforts. While not problematic in and of itself, Sea Shepherd’s use of Jairo’s name does beg the question, Why chose Jacó, a tourist and surfing community filled with resorts that is the only community within Costa Rica to have a police-enforced hatchery already in place, especially while Moín beach still requires protection from development?<sup>536,537</sup>

#### **4.10 Summary**

This chapter has discussed the ways that Sea Shepherd’s direct enforcement campaign, Operation Jairo, Costa Rica, has reinforced concepts of legality and legitimacy.

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<sup>535</sup> “Accomplices not Allies,” 3-4

<sup>536</sup> Jamie Lopez, "Sea Turtle Rescue Center Managed by Police in Costa Rica," *The Costa Rica Star*, September 18, 2014, <http://news.co.cr/sea-turtle-rescue-center-managed-by-police-in-costa-rica/35066/>.

<sup>537</sup> It should be noted that I volunteered as a field producer for a Sea Shepherd-produced documentary called *Why Just One*, which was released just days before the submission of this thesis. Unlike the direct enforcement campaign, the documentary highlighted the subject

This campaign served to reinforce state initiatives, hamstrung the work of local activists, diverted attention from the destruction of Moín by APM terminals, and tokenize and delegitimized the work of local activists.

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of APM terminals, but does so in a way that frames the project as unstoppable, and can be seen to delegitimize the words of the local activists who are interviewed on the subject. *Why Just One*, directed by Michael Colin (New York: Sea Shepherd Conservation Society, 2016), iTunes.

## Chapter 5: Anti-Colonial Possibilities in Direct Enforcement

Jacques Derrida has argued that conforming to objective law by through enforcement might shelter one “from criticism, under the protection of law.”<sup>538</sup> However, he convincingly asserts that to do so “without the spirit of justice” is unjust.<sup>539</sup> Each previous chapter has analyzed theoretical and practical applications of direct enforcement. Chapter One examined how Eilstrup-Sangiovanni and Phelps Bondaroff’s definitions of direct enforcement reinforced Western notions of legality, proportionality, legitimacy, and justice. Their definition of direct enforcement was historicized simply as a Western phenomenon and expressed ambivalence towards how Indigenous laws would apply to direct enforcement. The case studies in chapters two and three demonstrated how Operation Jairo and Operation Grindstop’s direct enforcement campaigns reinforced anthropocentrism, colonialism, racism, and developmentalism. The chapter also outlined some ways that local activists may be navigating activism that could be more effective and sustainable in the Faroes and Costa Rica. I have argued how each of Eilstrup-Sangiovanni, Phelps Bondaroff, Operation Grindstop, and Operation Jairo’s mobilizations of direct enforcement mirrored mainstream trends in Western animal law advocacy: the view of advocacy work as a civilizing mission that blames locals, ignores grassroots activism, and dissociates from the ways in which neoliberal Western systems contribute to the sustenance of the human/subhuman binary.

Will Kymlicka contends that if animal advocates want to be more effective, then animal law advocacy must connect with other movements in productive and intersectional ways in an effort to galvanize the left. He adds that some minority practices “would need to

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<sup>538</sup> Jacques Derrida, *Acts of Religion*, 245.

<sup>539</sup> Jacques Derrida, *Acts of Religion*, 245.

give some account, some moral justification for their practices . . . but only on the same terms that the majority would have to give some justification for its eating of pigs [for example].”<sup>540</sup> Further, Kymlicka contends,

If we want to challenge this culturally biased interpretation of animal welfare standards, we precisely need a legal framework which does not privilege majority practices and majority sensibilities, but rather requires both majorities and minorities to give some moral justification for their treatment of animals. And, so, again, the issue about cultural bias is a very fundamental one for the left. . . the culturally biased interpretation of normative standards. But I think it is not the animal rights agenda that opens the door to this form of cultural bias, it is the status quo with its, in my view, very pernicious view, of unnecessary animal suffering or cruelty. . . There’s a whole bunch of things that immediately become possible if we took this agenda seriously. There are all sorts of ways in which we can think about synergies between different social justice movements. . . [For example,] [t]hink about race and animal rights. There is an American law professor who argues that, in the United States, as in most Western countries, there is massive subsidies to the dairy industry, which is controlled by prosperous White people, so we’re funding all sorts of money to give to prosperous white people to support the production of dairy and then there is a legal requirement that public institutions, like jails, schools, [and] hospitals buy the dairy. To give to whom? Often racial minorities, Blacks and Latinos many of whom are lactose intolerant . . . and it is causing this public health catastrophe of both obesity and diabetes in many of these racial minority populations. So this law professor argues that this policy of subsidized dairy is a form of racial discrimination. It is benefitting Whites at the expense of Blacks and Latinos. . . We could also talk about links between animal rights and disability movements and how ideologies of ableism are underpinned injustices in both cases.<sup>541</sup>

Kymlicka cites a number of examples of activism and scholarship that focus on synergies between social justice movements.<sup>542</sup> The activism of anti-racist and animal law advocacy in critiques of subsidized dairy programs contribute to racial discrimination, in the fact that the subsidization of the dairy industry benefits whites at the expense of Blacks, Latinas, and

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<sup>540</sup> Will Kymlicka, “Animals and Social Justice,” presented at Sydney Environmental Institute, Sydney, Australia, August 25, 2016, <https://www.youtube.com/watch?v=yMtwbur0ylo>.

<sup>541</sup> Ibid.

<sup>542</sup> Ibid.

Latinos.<sup>543</sup> Another example includes the activism of patrice jones, who focuses on the intersections between queer activism and animal law activism by citing the compulsory heterosexuality of factory farms.<sup>544</sup> Kymlicka notes that such opportunities can only be achieved through “consultation, collaboration, and partnership with minority communities; with procedural safeguards and contexts to ensure that even if we will sometimes [talk] about minority practices we are also talking about majority practices as well as minorities, so that minorities are not singled out . . . [so that] minorities are not stigmatized.”<sup>545</sup>

This chapter will explore land-defense campaigns that centered on achieving forms of anti-colonial, anti-racist, and anti-anthropocentric justice and it will also provide examples and recommendations for organizations using the tactic of direct enforcement. Many of these organizations can join those who are known as “protectors,” “allies,” and “accomplices” to anti-colonial, anti-racist, and anti-anthropocentric direct enforcement work. This point leads me to consider forms of direct enforcement concurrent with the kind of justice Derrida describes. Contrary to Eilstrup-Sangiovanni and Phelps Bondaroff’s definitions, direct enforcement cannot be defined by its ability to appeal to the unjust structures that constitute Western understandings of legality, legitimacy, and proportionality. Rather, direct enforcement conceived as justice needs to be defined by its ability to challenge these constitutive elements of Western juridicopolitical discourse—especially in the face of systemic and systematic exploitation and oppression. Taking part in anti-colonial and anti-

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<sup>543</sup> Ibid.

<sup>544</sup> Ibid.

<sup>545</sup> Ibid.

anthropocentric direct enforcement means centering anti-colonial initiatives that challenge the continued colonization, criminalization, and animalization of Western civilizing missions.

### 5.1 Land Defence as Direct Enforcement

There are numerous campaigns that attempt to enforce laws that are neither recognized nor adequately enforced by Western legal or enforcement structures. Oshkimaadziig Unity Camp's reclamation of so-called Awenda Park and occupation of Coldwater Narrows Specific Land Claim Settlement, using old treaties to opt out of the *Indian Act* and re-establish clan governance, could be construed as a form of direct enforcement.<sup>546</sup> Similarly, A Voice for the Voiceless' two-spirit-led Indigenous reoccupation of unceded St'át'imc land in Xwisten territory to prevent logging, a process that is in contravention of established territorial boundaries, could also be viewed as direct enforcement in its attempts to reclaim their land that has been stolen from them.<sup>547, 548</sup> The ardent defenders of Lax U'u'la's sovereignty claims over their land, which was in response to an LNG terminal and industrial development, is yet another example of a mobilization of this tactic.<sup>549</sup>

The Unist'ot'en camp's occupation of Wet'suwet'en territory is another well-known

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<sup>546</sup> Giibwanisi, "The Path to Biskaabiiyaang," *The Dominion: News from the Grassroots* (2016): 14-15, [http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion\\_summer2016\\_land\\_defence\\_warrior\\_up.pdf](http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion_summer2016_land_defence_warrior_up.pdf), 15.

<sup>547</sup> Christine Jack, "A Voice for the Voiceless," *The Dominion: News from the Grassroots* (2016): 28, [http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion\\_summer2016\\_land\\_defence\\_warrior\\_up.pdf](http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion_summer2016_land_defence_warrior_up.pdf), 28.

<sup>548</sup> Christine Jack, "A Voice for the Voiceless," River Voices, May 23, 2015, <https://www.youtube.com/watch?v=-3SUTQcliXg>.

<sup>549</sup> Ashley Zaratany, "The Petronas Project and the LNG Pipe Dream," *The Dominion: News from the Grassroots* (2016): 25-26, [http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion\\_summer2016\\_land\\_defence\\_warrior\\_up.pdf](http://www.mediacoop.ca/sites/mediacoop.ca/files2/mc/dominion_summer2016_land_defence_warrior_up.pdf).

land defence campaign that arguably deploys the direct enforcement tactic. The Unist'ot'en made use of Wet'suwet'en laws as well as the United Nations Declaration of the Rights of Indigenous Peoples' Free Prior Free Prior and Informed Consent to enforce their rights.<sup>550</sup> Freda Hudson, leader of the Unist'ot'en Camp argues that these Wet'suwet'en laws include “[p]rotocols where visiting peoples have [been required to show] who they are in relation to asking permission to enter the Traditional Lands from the Traditional Chiefs and Matriarchs of the hosting lands.”<sup>551</sup> Musgamagw Dzawada'enuxw Cleansing Our Waters also uses a similar direct enforcement initiative, delivering eviction notices to salmon farms and asserting that they are the “ultimate authority in [their] traditional lands and waters.”<sup>552</sup> The Ahousat eviction of Cermaq, a salmon fishery is thus another example of anti-colonial direct enforcement. Gowena Joe James Grove, Ahousat member, was arrested by the RCMP under the charges of intimidation and mischief for standing up against Cermaq fish farm. He describes the meaning behind their eviction of Cermaq:

Within Ahousat territory... we need to be able to say that we have a right to . . . stand up and defend our waters and wild salmon. That we have a right as indigenous people to protect and voice our concerns... Where we are at is corporations have the protections of colonial laws, they have the protections of court, they have the protections of corporate laws, to protect their interests, protect their investment, which is only about the dollar sign. It has no care about the people upon the land. It has no care about the waters, the land, the history. It has no care about ... the natural

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[e warrior up.pdf](#), 23.

<sup>550</sup> Unist'ot'en Camp, "Free Prior and Informed Consent Protocol," *Unist'ot'en Camp*, Accessed October 21, 2016, <https://unistotencamp.wordpress.com/free-prior-and-informed-consent-protocol/>.

<sup>551</sup> Ibid.

<sup>552</sup> This activist group was filmed, but not mentioned by name, by Sea Shepherd Conservation Society in their campaign Operation Virus Hunter.

laws of the land.<sup>553</sup>

These campaigns represent examples of anti-colonial direct enforcement campaigns that protect animals and the environment and also participate in challenging the colonialism inherent in Western juridicopolitical systems. This targeting, as Taiaiake Alfred argues, creates “authorities [that] are extremely threatened by”—“any kind of rise of indigenous nationhood.”<sup>554</sup>

### **5.1 “Accomplices not Allies”; “Protectors not Protestors”**

Taking part in anti-colonial direct enforcement means that non-governmental organizations would be required to understand the colonial and racial implications of their direct enforcement activism and take these dimensions into account when planning campaigns. Understanding allyship is central to comprehending how anti-colonial direct enforcement campaigns would differ in structure from their earlier counterparts, as organizations attempting to mobilize direct enforcement through anti-colonial methods may be required to re-formulate their role in campaigns as allies, accomplices, and protectors.

In an Ancestral Pride zine, Xhopakelxhit argues that the term “[a]lly is a verb: it implies action” and has been used to describe ways in which settlers “can participate and help in the Indigenous struggle for liberation from the colonial genocidal regime.”<sup>555</sup> She offers comprehensive guidelines for individuals and organizations to take to heart when

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<sup>553</sup> Seitcham, Sacheen (Xhopakelxhit), *Wild Salmon Love, Sacheen Seitcham (Xhopakelxhit)* (Facebook page), August 26, 2016, <https://www.facebook.com/queen.sacheen/videos/10157483432405637/>.

<sup>554</sup> Carlito Pablo, "Will we See a Resurgence of Indigenous Warrior Societies in B.C.?", *The Georgia Straight*, June 20, 2012, <http://www.straight.com/news/will-we-see-resurgence-indigenous-warrior-societies-bc>.

<sup>555</sup> Seitcham, Sacheen (Xhopakelxhit), “Everyone Calls Themselves an Ally Until it is Time to do some Real Ally Shit,” *Ancestral Pride*, January 2014, [https://warriorpublications.files.wordpress.com/2014/01/ancestral\\_pride\\_zine.pdf](https://warriorpublications.files.wordpress.com/2014/01/ancestral_pride_zine.pdf), 2.



becoming an ally that are equally applicable to the design and structuring of direct enforcement campaigns. She argues that allyship includes using settler privilege by “putting yourself [physically] in front of the indigenous” in “altercations with the authorities” because settlers have “more privilege and more protection when it comes to interactions with the authorities than” Indigenous peoples.<sup>556</sup> An example of this is the state of Dakota’s expedient drop of charges and arrest warrant for criminal trespassing and, later, riot for Amy Goodman, from Democracy Now,<sup>557</sup> contrasted to the equivalent charge yet longer holding times for Indigenous land defenders charged with similar crimes. Allyship is further constructed as confronting organizations that perpetuate environmental racism by “ignoring the fact that there were people here before these countries existed and . . . decided to be environmentalists.”<sup>558</sup> Allyship also involves donating money or supplies, such as vehicles, food, a place to stay, and so on to land defenders,<sup>559</sup> helping with distribution, giving access to administrative equipment, promoting the work of Indigenous land defenders, and setting up events to raise funds and awareness about defense work.<sup>560</sup> Allyship also involves setting up networks of safe houses with food and bedding for Indigenous land defenders<sup>561</sup> and setting up transportation, or transportation relays, for Indigenous persons to ensure groups can get to places and take part in promotional activities.<sup>562</sup> Lastly, it means being there for

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<sup>556</sup> Ibid., 7.

<sup>557</sup> Sacheen Seitcham and Amy Goodman, “Morton County Court House with Amy Goodman,” *West Coast Women Warriors Media Cooperative* (Facebook page). October 17, 2016, <https://www.facebook.com/Westcoastwomenwarriors/?pnref=story.unseen-section>.

<sup>558</sup> Seitcham, Sacheen (Xhopakelxhit), “Everyone Calls Themselves an Ally Until it is Time to do some Real Ally Shit,” 7.

<sup>559</sup> Ibid., 8, 10.

<sup>560</sup> Ibid., 9-10.

<sup>561</sup> Ibid., 10.

<sup>562</sup> Ibid., 11.

the long haul—until the fight has been won and subsequently moving on to the next fight.<sup>563</sup>

These recommendations provide an important framework for considering how direct enforcement campaigns can be effectively structured for future actions.

Moving beyond allyship, the Indigenous action network argues that the term “ally” has been too easily co-opted in the creation of the “ally industrial complex”<sup>564</sup> or the white savior complex, wherein individuals are tokenized. This has led to the phrase, and the creation of popular zine named after it, “accomplices not allies.”<sup>565</sup> The zine defines accomplice as “a person who helps another commit a crime.”<sup>566</sup> The term “accomplice” gives significant attention to the nuanced forms of oppression that have been overlooked in allyship. First and foremost, the Indigenous Action Network establishes that being an accomplice means “attack[ing] colonial structures and ideas” by “articulating your relationship to Indigenous Peoples whose lands you are occupying” and asking consent to build alliances.<sup>567</sup> Being an accomplice is opposed to being a “parachute[r],” those who “rush to the front lines seemingly out-of-nowhere . . . [and] literally move from one hot or sexy spot to the next”<sup>568</sup> usually “structural patronization that is rooted in the same dominion of hetero-patriarchal White supremacy.”<sup>569</sup> An accomplice should “seek ways to leverage resources and material support and/or betray their institution to further liberation struggles. . .

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<sup>563</sup> Ibid., 11.

<sup>564</sup> *Accomplices Not Allies: Abolishing the Ally Industrial Complex*, Indigenous Action Network, February 5, 2014, <http://www.indigenouaction.org/wp-content/uploads/accomplices-not-allies-print-friendly.pdf>, 1.

<sup>565</sup> Ibid., 1

<sup>566</sup> Ibid., 7

<sup>567</sup> Ibid., 4

<sup>568</sup> This claim harkens back to Sea Shepherd’s activism on Operation GrindStop and Operation Jairo.

<sup>569</sup> Ibid., 4

. [to] strategize with, not for and not be afraid to pick up a hammer,”<sup>570</sup> and to “find creative ways to weaponize their privilege (or more clearly, their rewards for being part of an oppressor class) as an expression of social war.”<sup>571</sup> Further, accomplices are asked to “engage in uncomfortable/unsettling/challenging debate or discussions”<sup>572</sup> and to be held accountable for their words or actions. However, it is also interesting that using the word “accomplices” demonstrates a canny deployment of legal language and provides a challenge for Western juridicopolitical discourse. Accomplices may be defined as “a person who helps another commit a crime”<sup>573</sup>; however, this crime is “complicit in a struggle towards liberation.”<sup>574</sup> If it stands to reason that that which is considered “criminal” in Western juridicopolitical discourse is that which can help us achieve liberation, then the use of the word “accomplices” functions as a critique of Western juridicopolitical discourse that reinforces these oppressions. Taking part in an action as an accomplice, therefore, could be considered criminal within Western juridicopolitical discourse—such as federally—but not as a crime in Indigenous laws. Nonprofits hoping to take part in anti-colonial direct enforcement activism would therefore be required to abide by the above guidelines, remaining accountable to their actions, asking consent to take part in campaigns, continually

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<sup>570</sup> Ibid., 5.

<sup>571</sup> Ibid., 6.

<sup>572</sup> Ibid., 5.

<sup>573</sup> Ibid., 2.

<sup>574</sup> Ibid., 2.

challenging colonial structures, and providing monetary support specifically for and in the promotion promotion of Indigenous actions.

## **5.2 Musgamagw Dzawada'enuxw Cleansing Our Waters, Alexandra Morton, and Sea Shepherd's Operation Virus Hunter Campaign**

Operation Virus Hunter is an example of an attempt on behalf of Sea Shepherd to fulfill the role of the accomplice. The campaign took place from July 22<sup>nd</sup> 2016 to approximately September 7, 2016. Operation Virus Hunter was targeting fish farms for the piscine retrovirus that they spread to wild salmon populations, which was threatening wild salmon and orca populations. The campaign worked under the direction of independent biologist Alexandra Morton and alongside the Musgamagw Dzawada'enuxw Cleansing Our Waters. Sea Shepherd's boat, *RV Martin Sheen*, which accompanied elected councilor Melissa Willie, hereditary leader William H. Wasden Jr., elected leader Willie Moon,<sup>575</sup> and others to salmon farms to deliver eviction notices and take samples of the fish to test for the spread of a disease that would also compromise wild salmon.

After the campaign, Marine Harvest launched a lawsuit against biologist Andrea Morton, who entered onto Marine Harvest's fish farms with Musgamagw Dzawada'enuxw Cleansing Our Waters and Sea Shepherd. Speaking on the lawsuit, Ray Grigg argues,

the parade of chiefs, elders, women and children, who either identified themselves or were photographed on the salmon farms, were designated by Marine Harvest as 'John Doe, Jane Doe, and all other person's unknown. . .' [in the lawsuit]. But they are known persons. And the defence they presented reverses the issue of trespass. How could they be trespassing if the salmon farms were the trespassers? If Morton is guilty of trespass, are all the others also guilty? On this point, the evidence in the suit could expand to involve issues of aboriginal legal claims, unceded territory, social justice and justifiable self-defence against a threat to an entire aboriginal culture.

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<sup>575</sup> Alexandra Morton, "The Growing Storm," *Voyage for Salmon*, September 1, 2016, <https://www.voyageforsalmon.ca/the-growing-storm/>.

Undoubtedly, the suit would expose the darker secrets of the salmon farming industry, so even a win may be yet another loss for the industry.<sup>576</sup>

Grigg's argument points toward the hypocrisy of the suits to not name those other than Morton. The recourse was that three Dzawada'enuxw leaders, Willie Moon, Joe Willie, and Farron Soukochoff, identified themselves as the "others" that the lawsuit identified and filed a joint response to the lawsuit.<sup>577</sup> In response to the lawsuit, they state, "defendant Morton was in attendance with the Dzawada'enuxw defendants and at the ceremony with the authority and at the invitation of the Dzawada'enuxw Defendants and the Dzawada'enuxw First Nation."<sup>578</sup> The direct enforcement actions that transpired enabled an anti-colonial reclamation of the land as well as the ability to challenge colonialism through the court system.

While the campaign's long term effects (and whether Sea Shepherd will return to continue the fight) are yet to be seen, this aspect of the campaign is promising, though the campaign itself is not entirely without criticism. During the campaign, Sea Shepherd's reports on the campaign provided little context or history by way of Indigenous resistance to salmon farming and ultimately took credit for mobilizing the Musgamagw Dzawada'enuxw Nation, who have been opposed to salmon farming for over thirty years ("the campaign . . . saw Musgamagw Dzawada'enuxw First Nations *take up the charge* and serve eviction

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<sup>576</sup> Ray Grigg, "Salmon farm industry faces harsh glare of court spotlight," *Troymedia*, October 25, 2016, <http://www.troymedia.com/2016/10/19/salmon-farms-court-spotlight/>.

<sup>577</sup> Alexandra Morton, Willie Moon, Farron Soukochoff, and Joe Willie. "Response to Civil Claim between Marine Harvest Canada Inc. and Alexandra Morton, John Doe, Jane Doe, and All Other Persons Unknown to the Plaintiff Occupying, Obstructing, Blocking, or Physically Impeding the Plaintiff's Aquaculture Sites," Vancouver November 15, 2016, <https://thetyee.ca/Documents/2016/11/18/Response-Civil-Claim.pdf>.

<sup>578</sup> *Ibid.*, 3.

notices to a number of fish farms in their territories”).<sup>579</sup> Further, Operation Virus Hunter still reflected the same tendencies *Accomplices not Allies* warns of—the “rush to the frontlines seemingly from out-of-nowhere,”<sup>580</sup> “show[ing] up to the fight when it’s a little too late,”<sup>581</sup> but tending to “disappear” all too early.<sup>582</sup> Nonetheless, the campaign may represent a step in the right direction for Sea Shepherd’s direct enforcement campaigns.

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<sup>579</sup> My emphasis. The RV Martin Sheen, “Richard Dean Anderson,” *The RV Martin Sheen* (Facebook page), September 7, 2016, <https://www.facebook.com/SeaShepherdMartinSheen/photos/pcb.1131227910286036/1131228833619277/?type=3&theater>

<sup>580</sup> *Accomplices Not Allies: Abolishing the Ally Industrial Complex*, 4.

<sup>581</sup> *Ibid.*, 3.

<sup>582</sup> *Ibid.*, 6.

## Chapter 6: Conclusion

As mainstream animal law advocacy rises in popularity, the potential of crossover between land defense, anti-colonialism, anti-racism, and anti-anthropocentrism is a timely and salient issue. This thesis has explored the potential for animal law advocacy to champion animals using direct enforcement to actively challenge colonialism, anthropocentrism, classism, and racism—intertwined oppressions that continue to reinforce one another if not challenged.

Eilstrup-Sangiovanni and Phelps Bondaroff were successful at outlining an approach to direct action that has been very popular, especially within the Western sphere. Similarly, Sea Shepherd has proven successful at mobilizing Western culture's veneration of charismatic megafauna to fund missions and enforce laws protecting whales, dolphins, sea turtles, fish, and other animals. However, both have also reinforced racism, colonialism, and neoliberalism through narrow appeals to legality, proportionality, and legitimacy—all that which constitutes justice. My research has sought to find potential ways for direct enforcement to center anti-colonial, anti-racial, and anti-anthropocentric struggles in direct enforcement campaigns.

For direct enforcement to be effective in growing sustainable movements, those employing the tactic must consider inconsistencies in these ideologies. The inclusion of anti-racist and anti-colonial struggles in animal law advocacy will help achieve the liberatory goals of the animal advocacy movement. More than effectiveness, it will also mean that activists do not simply stand idly by while racism and colonialism are enacted and re-enacted

on marginalized, racialized, and colonized individuals—individuals who include both humans and nonhumans.

When I began writing my thesis, I chose SSCS' campaigns Operation Jairo and Operation Grindstop as case studies because I was hopeful that SSCS' direct enforcement represented a forceful and required incursion into oppressive ideologies that favoured humans over nonhumans. However, I determined that SSCS reinforces white supremacy, reducing the oppression of animals to single issue fights that obscure the ways that Western civilization is largely responsible for the threats facing animalized, marginalized, racialized, and colonized peoples. While I am hopeful that SSCS will remain a force for change, Sea Shepherd's mobilization of direct enforcement on both Operation Jairo and Operation Grindstop reflects mainstream trends in the animal law advocacy movement, reinforcing neoliberal developmentalist whiteness to the detriment of the effectiveness of the campaigns.

Contrasting Eilstrup-Sangiovanni and Phelps Bondaroff's theorizations of direct enforcement and Sea Shepherd's mobilizations of direct enforcement in Operation Grindstop and Operation Jairo, I presented multiple examples of defence-based campaigns that offer incursions into trends of neoliberal whiteness in current theorizations and mobilizations of animal law advocacy and, specifically, direct enforcement. While anti-racist and anti-colonial movements are also imperfect in their activism, often invoking internalized beliefs that humans deserve more moral consideration than non-humans or "discursively hid[ing] exploitative food commodity chains,"<sup>583</sup> these movements, as Justine Smith argues are "a

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<sup>583</sup> A. Breeze Harper, "Vegan Consciousness and the Commodity Chain: On the Neoliberal, Afrocentric, and Decolonial Politics of 'Cruelty-Free,'" 121.



first step towards the preservation of the global community.”<sup>584</sup> While these exclusions can be a weakness within advocacy, they are an opportunity for future research into non-oppressive legal advocacy.

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<sup>584</sup> Justine Smith as cited in Andrea Smith, *Conquest* (Cambridge: South Edge Press, 2005), 61.

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