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Persistence in the North Pacific:
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Native North American History

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In the Pacific Ocean, just off the coast of North America a whale swims blissfully unaware of its own significance. It is a Gray Whale; scientists would call it *Eschrichtius robustus* and at nearly forty feet long, it is large enough that it does not have to worry about sharks or other carnivorous animals. Yet there are those that are brave enough to hunt the whale. They are the Makah People of the Olympian Peninsula, in upper Washington state. By doing so, they place themselves at the center of a complex ethical debate amongst activists, scientists, and the general public. The Makah have hunted whales and other marine animals for centuries. The debate arises of whether or not they should be allowed to continue to do so in the future or if it was even ethical to do so in the first place.

The Makah argue that is their right, guaranteed by treaty. Reactionary environmental activists call it cruel and unnecessary in the modern world. Yet to the Makah, this practice was once a matter of survival and remains a culturally significant part of their identity. In many ways, this case is about far more than just the lives of the whales. It is a representation of what has occurred to indigenous peoples all across North America and indeed the world. Who's right do we protect? The Makah or the whales they hunt? Who is it that decides when it is appropriate to deny the legally promised rights of indigenous people? The issue of Makah whaling is one that explores many of the intersectional issues of environmental justice, conservation, and the rights and sovereignty of Indigenous people. It is another example of Indigenous people being told they must sacrifice their beliefs and practices in order to be more "eco-friendly", shirking the blame despite non-indigenous societal practices that are responsible for the bulk of environmental calamities. A perpetuation of the historical narrative that Native ways were somehow "the wrong way" of doing things. Perhaps more than anything it reveals that the imposition of outsider

values and judgment of Native Peoples is not a thing of the past as some of us would like to believe, but an ever-present issue that must be continuously combated.

An understanding of the Makah as a people is crucial to understanding the significance of the whaling debate as a whole. To say that their relationship with the sea was important to the Makah would be a gross understatement; it was pivotal to them. For as long as they can remember they have used the sea and its vast resources to sustain themselves. Like many indigenous people they held vast local ecological knowledge; through their interactions with the land and the animals they practiced a form of stewardship that goes far beyond simply harvesting resources. When they killed an animal, very rarely did any part of it go to waste. They even consumed things that non-indigenous people wouldn't even consider, like rendering the fatty seal blubber into condiments. The meat sustained their diets and from the bones they would make all manner of tools and personal items, including decorative ornaments. While the meat nourished their bodies, the hunt itself nourished the soul, it was nothing short of a ceremony that strengthened their connection to nature.¹ All this to say that to the Makah, their relationship with the animals they killed and ate is vastly different to the way that most people view the meat on their dinner plate. In cases such as these it is easy to see the situation such that the killing of an animal is unethical because life is sacred, therefore killing is unethical. However, in many ways this is a gross oversimplification of the relationship between the Makah and the animals they hunt. If the ethics of the situation are based on the supposition that life is sacred, then the hunting of them by the Makah can be considered ethical because they also view the lives of these animals

¹ "Makah Tribe (Neah Bay, Washington): Tribal Info, History and More." 2013. Makah Tribe.

as sacred in a way non-indigenous people cannot fully understand. There exists a reverence and respect for the animal, and that extends perhaps most of all to the whales.

The whale and practice of whaling is central to the cultural identity of the Makah. There is archeological evidence that suggests their ancestors were hunting whales some two thousand years based on whale bones found with harpoons in them. Part of the significance is the fact that it is so incredibly difficult and dangerous. Before the hunt even begins, men would spend weeks even months preparing spiritually, praying, fasting, and participating in ceremonial rituals. Spiritual readiness was something that the men prepared for their whole lives and was just as if not more so important than the physical preparations, although those were no less laborious.

The actual process of hunting a whale is incredibly intense. Especially when you consider the Makah did it from canoes, powered only by paddles and the wills of the men who held them. If they were lucky enough to find and spear one, they had to be careful to avoid the thrashing flukes that could easily overturn their canoes and crush them. Floats, often made of seal skins, were attached to tire the whale out before it could be safely approached and dispatched with a lance. Then they towed it back to shore, as much as ten miles sometimes. Opponents would call this process “barbaric” yet offer up no alternative method to effectively killing a whale; they offer no “ethical” solution. If the Makah did not historically hunt whales, they would’ve had to sustain themselves from other animals. Is it more ethical to kill one whale or two dozen seals? Ignoring the aforementioned deep reverence and spiritual significance of the whale to the Makah, the whale was the best trade off in terms of resources gained from lives lost. This sacred practice was so important to the Makah people that even when they ceded thousands of acres of their homeland, they demanded to keep their right to whale when the Treaty of Neah Bay was created.

In January of the year 1855, before Washington was officially a state, the leaders of the territory and the indigenous people signed a treaty. The treaty of Neah Bay did many things, such as outlining the exact lands the Makah would cede to the United States and the establishment of a reservation. The article that has garnered the most scrutiny over the past decades has been Article 4: “The right of taking fish and of whaling or sealing at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the United States, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting and gathering roots and berries on open and unclaimed lands: Provided, however, That they shall not take shell-fish from any beds staked or cultivated by citizens²” The article clearly states they have the right to whale as they have historically done and the wording could not be more clear. The Broken treaty of 1868 between the United States and the Sioux shows that the US has a history of breaking its promises, no matter how sacred the subject matter is to Indigenous people.³ If the right to whale is continuously denied, it will become another ring in the chain of broken promises and failure to uphold treaty law between the US and Native Americans. Legally speaking, whales are federally protected by the Marine Mammal protection act, which outlaws the taking of marine mammals.⁴ The fact that the Makah have had so much trouble obtaining permit waivers illustrates the complicated nature of US-tribal relations. The Makah Tribe of Indians is federally recognized. As such, many would argue they should be viewed as a sovereign nation and thus would not have to adhere to the MMPA, and that by requiring to get a waiver it is a refusal to acknowledge their sovereignty. Regardless of what position one takes on

² (“Treaty of Neah Bay, 1855 | GOIA” 2019)

³ The treaty between the United States and the plains Indians clearly outlined the Black hills as unceded territory. The US rebuffed this and broke the treaty when gold was discovered, and the land was taken from the Sioux. (Cutlip 2018)

⁴ Taking in this legal sense refers to the harassment, injuring, or killing of Marine mammals or the intent to do so. (*Marine Mammal Protection Act 1972*)

the ethics of the whale hunt, it cannot be denied that the circumstances around it present yet another case of the United States' difficulty acknowledging and respecting the sovereignty of Tribal nations.

Given both the extensive historical context and treaty-based legal protection, it is all the more upsetting that the Makah have faced significant backlash every time they have tried to hunt a whale in recent decades. Much of the modern history begins in the 1920s, when the Makah voluntarily ceased the hunting of gray whales. During this period, the Makah were but one of the many parties that whaled. The 1800s saw a global rise in whaling, the Dutch, Norwegians, British, Americans, and several other countries all tried to cash in. There were entire towns, portside cities built upon the revenue from hunting whales. That revenue really is the important distinction, unlike the Makah hunts that were motivated spiritually and for sustenance. Greed is what drove the other hunts, and it was that greed that led to several whale species nearly going extinct. This led the Makah, wanting to preserve their sacred relationship with the Gray Whale, to voluntarily suspend the hunts in the early 1920s so their population might recover. They valued the whale for far more than just the profit that others saw, and knew that you cannot take without also giving back. So, they gave the whales a chance to recover, over a decade before other nations even started talking about instituting whaling regulations in the 1930s.⁵ In 1994, the North Pacific Gray Whale was taken off the Endangered Species list, indicating stable population numbers no longer in decline. Around this same time the Makah announced their plans to resume whaling, and what followed was extreme backlash from almost every direction. Despite challenges in court, the hunt proceeded in May of 1999. On the morning of the 17th, the whalers of the tribe were successful and met with great celebration upon return to shore with the whale.

⁵ (van Ginkel 2004)

For many in the younger generation, it was the first time they had ever experienced such a thing; the Makah had not hunted a whale in 70 years.

There are many that see this as the most important day of the Makah's recent history. Many recall it bringing a great sense of unity to the tribe. An account from one teenager at the time reveals the way the hunt bridged generational gaps "I've heard so many stories about this from my grandpa. Now I finally know what he meant"⁶This illustrates the significance of the whale to tribal identity, and if the Makah are going to continue on then whaling is key to preserving this sense of identity in the future.

Unfortunately, this would also be their last whale for some time. Further attempts in the following years were met with even heavier backlash since they had actually killed a whale, creating much contempt and even blatantly racist sentiment. The tribe was tied up in court litigation for several years. Some members became impatient and in 2007, a group of men went in direct defiance of the tribal council and shot a whale. The carcass was confiscated by the coast guard before it sank to the bottom of the sea. The men were arrested and two even spent time in jail.⁷The whole incident has further divided public opinion on the whole matter of Makah whaling.

The Makah's fight to secure their whaling rights is one that is still ongoing. In November of 2019, they were still in the process of acquiring the proper permissions. As of November 24th, 2021 a Seattle Judge Ruled in their favor.⁸ Now they simply must await the NOAA⁹'s final

⁶ ("Makah Whale Hunt Succeeds on May 17, 1999." n.d.)

⁷ Andy Noel and Wayne Johnson did not take a plea deal offered to the tribesmen and found guilty of violating the MMPA. Three other men took the plea deal and sentenced to 100-150 hours of community service. This included Theron Parker, one of the men who harpooned the whale in the hunt of 1999. ("2 Makahs Get Jail Time for Killing Whale" 2008)

⁸ ("Makah Tribe Wins Legal Battle in Seattle over Whale Hunting Rights" 2021)

⁹ National Oceanic and Atmospheric Administration

decision on the matter, just over two decades after their last successful hunt. It should not be this difficult. They should not have had any issues for the past one hundred and sixty years if the Neah Bay treaty was truly upheld. It is difficult to predict whether NOAA will grant them the permissions, but it is clear that the Makah's fight for their rights is far from over.

There are many that would argue the killing of Gray Whales is harmful ecologically. Disregarding the fact that they were taken off the endangered species list over two and a half decades ago, even if the whales were endangered the Makah should not be stripped of their rights because of it. Doing so could be considered environmental racism¹⁰; as it was never the Makah's hunting that put them in danger. It was the predominantly white whaling industry of the 1800s that put Gray Whales and other species at risk of extinction. The Makah should not be forced to sacrifice their tribal identity because others would not stop hunting whales purely for the sake of profit. What is especially upsetting is that the Makah have already sacrificed their tribal identity, when they *chose* to stop the hunt for seventy years to give the whales time to recover and repopulate. They have already sacrificed so much that to continuously deny them this right should be considered nothing less than an attack on their culture.

Ultimately it is not about the whale, it is what the whale *means to them*. That is something that all the protesters and animal rights activists will never truly understand. This acknowledgment of outsider ignorance is recognized by the whalers of Makah like Patrick Depoe who said "They are not Makah. They do not know what it means to us".¹¹ Perhaps the most outspoken critics of the Makah people and their practices is the Sea Shepherd conservation

¹⁰ Environmental racism is associated with when marginalized groups are disproportionately negatively affected by environmental degradation and climate change, despite said groups contributing least to the factors that cause those adverse conditions.

¹¹ (Eligon 2019)

society. Founded in 1977 by Paul Watson, one of the original members of Greenpeace, this organization has an unwavering commitment to its goal of protecting sea life from exploitation and destruction. Made famous by the Animal Planet reality series *Whale Wars*, which documented their fight against commercial Japanese whaling, the Sea Shepherds have a reputation for direct action and intense devotion in their campaigns against whaling. This has put them in direct conflict with the Makah people. In November of 2019 they put out this statement in regards to the Makah seeking whaling permits: “Sea Shepherd opposes the intentional killing of cetaceans, no matter the circumstances. From the Faroe Islands to Iceland, from Japan to Norway, Sea Shepherd’s opposition to whaling is categorical and uncompromising¹²” It is those last two words that really demonstrate the reasoning of their conflict with the Makah but also underscore how problematic their stance truly is. *Categorical* and *Uncompromising*. In other words, it is not a specific condemnation of the Makah or Native Americans in general. Sea Shepherd cares less about the fact that they are indigenous and more about the fact that they are killing whales. Yet that is an issue onto itself. Sea Shepherd doesn’t see a difference between the commercial Japanese whaling vessels that kill dozens a year to supply an industry, and the Makah’s eight-man canoes that put themselves in grave danger to practice a key element of their cultural and spiritual identity. This black and white approach to whaling simply fails to convey the crucial nuance of the situation.

This is not to say Sea Shepherd is some wholly evil organization. The bulk of what they do is working alongside various nations and their respective coast guards to combat illegal fishing practices. Yet at the end of the day, they are radical environmentalists, with some radical

¹² (“For the Whales: Sea Shepherd on Makah Tribe’s Request to Hunt Whales” 2019)

viewpoints. This unwavering opposition to whaling may seem noble, but in context of the Makah people it is very problematic. It completely fails to recognize the significance of the whale hunt to the Makah both spiritually and as a part of their cultural heritage. As established, the relationship between the Makah, the sea, and the whales is one that has existed for thousands of years and is deeper than Sea Shepherd, or really any nonindigenous person can truly understand. No matter their noble intentions or refusal to admit it, the Sea Shepherds are reinforcing the neo colonist rhetoric and contributing to the culture genocide of a people that have persisted in spite of colonist efforts for centuries.

It is that specific language used both by Sea Shepherd and the General Public that makes this case so significant for indigenous groups everywhere. Perhaps there is an ethical or scientific reason argument to be made against the Makah, yet even still it would not justify the hateful rhetoric that has been spewed at them for decades. Words like “barbaric” “slaughter” or “murder” reveal that there are those who still consider indigenous people to be *savages*, and that these attitudes have not changed in the centuries since settlers first colonized North America. This specific use of rhetoric is telltale sign of neo colonist attitudes that seek to erase the traditions of the Makah, effectively killing them in a cultural sense.¹³

The only way to combat this is to respect the treaty rights and perhaps more importantly the sovereignty of the Makah as a tribe. Allow for self determination to occur, even if the rest of the entire United States agrees that whaling is unethical, it should be up to the Makah. If ethics are the agreed upon moral standards of a society, then what are we saying by choosing to side with the United States? We are essentially continuing the attitudes of racial superiority that have

¹³ (Roberts 2010)

lead to the oppression of indigenous peoples for centuries. The adjudication of native peoples based on predominantly white values is not a sound ethical argument. It is just another excuse to deny indigenous people their right of self-determination and demonstrates an ignorance of cultural significance. Janine Ledford, the director of the Makah Cultural and Research Center, said it best when she said “It doesn’t make sense to me, in this day and age, that anybody thinks they have the right to tell us what should be important to us¹⁴”. Even if there was not a plethora of testimonies on the benefits that the whale hunt of 1999 had on the unity of the community and the reclamation of cultural identity, it must ultimately be up to the Makah to make those decisions. Outsiders may never understand the significance of the hunt to the Makah, but everyone must recognize the significance of protecting one’s culture and identity from those that would seek to erase it. While the taking of the life of an animal can be unethical in certain circumstances, we must consider the cultural significance of the Makah. In doing so we will find that it would in fact be unethical to *deny* them this right and outright condemn their entire cultural identity.

¹⁴ (Eligon 2019)

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