

SELLING SOCIAL JUSTICE:
NEOLIBERAL PROTEST RHETORIC, CORPORATIZED RESISTANCE, AND THE SEA
SHEPHERD CONSERVATION SOCIETY

By

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Evan Beaumont Center

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Abstract

In 2008 the Sea Shepherd Conservation Society partnered with the Fortune 100 media conglomerate Discovery Inc. and produced an incredibly efficacious discourse of conservationism. In doing so, they stepped outside the tradition of protest rhetoric and joined forces with corporate capital. As Sea Shepherd's protests occurred under both the historical and theoretical conditions of neoliberal capitalism, this dissertation contends that Sea Shepherd's resistance suggests a new category for understanding social protest—*neoliberal protest rhetoric*. Likewise, this dissertation introduces neoliberal protest rhetoric by marking several of its distinguishing factors and arguing for its relevance in the twenty-first century. Specifically, this dissertation focuses on three key concepts—*celebrity individualism*, *anti-Japanese propaganda*, and *piracy*—in order to illuminate key shifts in the practices of protest that can be parsed through the prevalent topoi of neoliberal capitalism.

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Selling Social Justice: Neoliberal Protest Rhetoric, Corporatized Resistance, and the Environmental Activism of the Sea Shepherd Conservation Society

Chapter 1

Introduction

In 2008, after failing for six years to stop Japanese whalers in the Southern Ocean, Sea Shepherd Conservation Society captain Paul Watson pitched his organization's activist ventures as a reality television show. After being rejected by a number of networks, Discovery's Animal Planet Channel eventually adopted the idea and decided to film, produce, and televise Sea Shepherd's protests. Titled *Whale Wars*, the show forged an alliance between the radical environmentalists of the Sea Shepherd Conservation Society and the Fortune 100 media conglomerate Discovery Communication Inc. (Discovery). The documentary style show was an instant hit and, over the next six years, droves of viewers tuned in to watch Sea Shepherd's protests against the Japanese whaling industry.¹ Ultimately, the corporate alliance between Sea Shepherd and Discovery propelled the once-peripheral group of environmental activists into the global limelight and successfully brought about what the Sea Shepherds had struggled for years to effect. In fact, by 2011 Japan's Fisheries Minister Michihiko Kano declared the shutdown of the whaling along the Antarctic coast with no plans for future engagement.² Indeed, within a few seasons *Whale Wars* nearly put itself out of business. Yet, despite Sea Shepherd's success, the cessation of cetacean hunting did not last. Notwithstanding swelling international pressure to stop Japanese whaling ventures, the whalers returned to the Antarctic territory the very next year and Sea Shepherd continued their conservationist efforts. However, in 2013, a "colorfully worded" U.S. court injunction put Sea Shepherd's corporatized protests in jeopardy.³ Although

the court injunction banned Sea Shepherd from coming within 500 yards of any Japanese whaling vessel, Sea Shepherd ignored the ban and their protests against the Japanese whalers waged forth.⁴

This dissertation uses Sea Shepherd's activism to investigate the confluence of protest rhetoric and capitalism. Sea Shepherd's alliance with Discovery—a multinational corporation—allowed them to accomplish something six years of protests had been unable to effect, namely inroads against the Japanese whaling industry. I believe that this unlikely marriage of environmental protest and big business has much to teach us about a category of discourse that has been central to rhetorical studies since the 1960s: protest rhetoric. Built on the unrest of the 1960s, protest rhetoric played a key role in the revitalization of the post-Wingspread study of rhetoric, and it has become a staple of rhetorical studies. One indicator of both its centrality and its continued relevance is the simple fact that, as of 2013, the Morris-Browne reader—the definitive textbook on protest rhetoric—is in its third edition.⁵

Yet, the moment Sea Shepherd locked arms with Discovery to better pursue environmental protest, it stepped outside the tradition of protest rhetoric that Morris and Browne trace from Vietnam to queer activism. From the perspective of this literature, Sea Shepherd did the unthinkable: it joined hands with multi-national capital. For these reasons, I suggest that Sea Shepherd has much to teach us about the timeworn category of protest rhetoric. Indeed, under the conditions of neoliberal capitalism, their protests suggest a new category for understanding social protest—neoliberal protest rhetoric. Therefore, this dissertation is dedicated to introducing the category of neoliberal protest rhetoric, marking several of its distinguishing factors, and arguing for its relevance in the twenty-first century.

In order to investigate and establish a category for neoliberal protest rhetoric, I offer three vignettes of Sea Shepherd's protests. Each vignette focuses on a specific topos of neoliberal argument to demonstrate a distinct shift in protest rhetoric. In the second chapter, I contend that unlike the protests of the twentieth century, which placed particular emphasis on the grassroots efforts of their collective supporters, Sea Shepherd's protest are driven by celebrity individualism. In the third chapter, I examine the racialized dimensions of corporatized resistance in a neoliberal era and explicate how Sea Shepherd's protests are eerily reminiscent of WWII propaganda. Finally, in the fourth chapter, I use a legal debate over the ontology of the pirate to illustrate how protesting publics are delegitimized by the complexities of neoliberal state power.

In this introduction, I provide groundwork for understanding neoliberal protest rhetoric as a distinct shift in the history of protest rhetoric. To do so, I provide three essential contexts: the histories and theories of neoliberal capitalism, corporatized resistance, and protest rhetoric. Second, I discuss the methodological assumptions that undergird the proceeding chapters. Finally, I conclude with an overview of Sea Shepherd and a synopsis of the subsequent chapters.

Neoliberal Capitalism, Corporatized Resistance, and Protest Rhetoric

Neoliberal Capitalism

In its essence, neoliberalism is an economic philosophy that assumes an unregulated market offers a political structure that can cure all social ills.⁶ The emergence of neoliberal capitalism as a totalizing system of economics can be traced to the 1940s with the works of Austrian philosopher Friedrich von Hayek. At the time, neoliberalism was a revolutionary concept that fixated on securing economic freedom via the competitive marketplace. What made neoliberal theory unique was that it opposed both the generally accepted Keynesian politics of

state economic intervention and Marxist based theories of centralized state planning.⁷

Neoliberalism gained popularity when a cadre of von Hayek's students and supporters, Milton Friedman the most notable among them, created a "huge international network of foundations, institutes, research centers, publications, scholars, writers and public relations hacks to develop, package and push their ideas and doctrine relentlessly."⁸ As neoliberal economic practices gained prominence, von Hayek won the Nobel Memorial Prize in Economics in 1974. Two years later, his student Milton Friedman, a primary figure in the Chicago School of economics, took home the very same prize.⁹

In the 1970s, amid global financial crises of inflation and rising unemployment, the staunch consensus around Keynesian economics, which encouraged the nation-state to provide market infrastructure for issues of unemployment and minimum wages as a mechanism to stimulate consumer power, began to dissipate.¹⁰ According to Jodi Dean, neoliberal economic philosophy began to infiltrate local, national, and international policy, most notably through the responses to these global crises of economy initiated by Ronald Reagan and Margaret Thatcher. Throughout the 1980s, they tightened the money supply, reduced union power, and deregulated the economy by reducing regulatory oversight on banking practices, while also privatizing a plethora of public services.¹¹ In the 1990s, explains Dean, with the repealing of the Glass-Steagall Act the political left extended these practices as Clinton and Gore treated the government "like any purchased good," designed solely to "satisfy customers" in spite of potential market pitfalls.¹²

By the 2000s, it was apparent that the principles of neoliberal capitalism were here to stay. However, neoliberalism had ceased to reflect the utopian ideal that had originally been proposed by von Hayek. In his foundational historical analysis on neoliberalism, titled *A Brief*

History of Neoliberalism, David Harvey explained that neoliberalism could be conceptualized in one of two ways: as a “*utopian project*” designed to reorganize “international capitalism” for socio-economic equality, or as a “*political project*” that re-establishes “the conditions for capital accumulation” in order to “restore the power of economic elites.”¹³ While its precepts remain the same, explained Harvey, history suggests the latter, and the utopian agenda of neoliberalism becomes “abandoned” when “neoliberal principles clash with the need to restore or sustain elite power.”¹⁴ Indeed, the global financial crises of 2008 made Harvey’s words—published in 2005—seem prophetic. Instead of letting the market regulate itself, which would have let corporations like Bank of America go bankrupt due to economic (and morally) corrupt business practices, the state stepped in and saved a number of failing corporations.¹⁵ Thus, the Emergency Economic Stabilization Act served as proof that neoliberalism as an economic philosophy was not functioning as it had ideally been conceptualized, and when necessary, its principles would invariably adjust to support the agendas of elite power on the back of a weak regulatory state.

Although the principles of neoliberal capitalism have often become, in Harvey’s words, “twisted” in an effort to sustain elite power, its topoi of *individualism*, *corporate privilege*, and *restructured state power*, have largely remained intact.¹⁶ These topoi of neoliberalism play out through an entrepreneurial sense of rugged individualism, which is unencumbered by state regulation and extended to fashion unbridled corporate power. In this manner, individuals are solely responsible for their own economic situation, state power adapts in order to support (but not regulate) the market, and corporations are endowed with the same autonomy and state protection that is afforded to individuals. Therefore, in this dissertation, neoliberalism can be understood through the oft-intersecting topoi of rugged individualism, restructured state power,

and corporate privilege. Moreover, these topoi provide entry points for better understanding shifts in protest rhetoric that have been brought forth by its relationship to neoliberal capitalism.

In recent years, the relationship between neoliberalism and protest took iconic form in the tents of Zuccotti Park. Yet, as the Occupy Wall Street movement demonstrated, it was not clear exactly whom or what was being protested. Even though organized protests took place in nearly every major city in the United States, isolating demands against the symbolic “1%” proved difficult. While popular, it became apparent that Occupy’s protests were far more efficacious at generating publicity than the desired systemic (and legitimized) political change for which its advocates were fighting. For instance, business mogul and rap entertainer Shawn Carter—better known as Jay-Z—highlighted this failure when his clothing line Rocawear produced and sold designer “Occupy All Streets” t-shirts to support the movement. However, the shirts were paradoxically an entirely for-profit business endeavor. Consequently, once Occupy supporters realized that the proceeds were lining his pockets instead of facilitating the movement, there was an outcry and sales stopped.¹⁷ Yet, the incident made an interesting point—through entertainment-driven branding, the vilified “1%” could readily profit off its activist adversaries.

Needless to say, although the protest rhetoric of the 1960s produced state-sanctioned change in regards to issues of race and gender, recent protests in the West against systemic issues of neoliberalism—such as those initiated by the tenants of Zuccotti park—have failed to produce substantial change. The failure of Occupy’s protests suggests that protest rhetoric cannot simply decry the injustices of neoliberalism that serve elite power: a savvier form of protest is necessary in order to produce effective resistance. This is the genius of Sea Shepherd; by aligning with corporate power they are *using* the conditions of neoliberal capitalism advantageously to effect social change. Thus, while the ethicality of their protests may be brought under question, the

political salience of their protests is unquestionable. Therefore, as the discourses of neoliberal capitalism permeate the globe, scholars of protest rhetoric are forced to reexamine rhetoric's possibilities for corporatized resistance.

Corporatized Resistance

The term “corporatized resistance” borrows from the recent scholarship of political science scholars Peter Dauvergne and Genevieve LeBaron. They argue that the recent past has produced a “corporatization of activism,” wherein activist organizations partner with large corporations and ultimately “have come to look, think, and act” like their corporate partnerships.¹⁸ Corporatized resistance combines the practices of activism with for-profit corporations. This basic collusion between activists and multinational corporations has been studied under a number of headings, namely *commodity activism*, *corporate social resistance*, *political consumerism*, *networked consumerism*, and *cause marketing*. Although there are nuanced disciplinary differences associated with each term, they all seek to examine activist use of the marketplace arena for political participation.¹⁹ Whatever its term, this fundamental collusion has much to offer rhetorical studies in the aftermath of Zuccotti Park. It offers us the possibility that protest rhetoric might be something more concrete than the high-minded (but quickly appropriated) protests of the Occupy Movement. As Sea Shepherd is teaching us, corporatized resistance, under the conditions of neoliberal capitalism, can indeed effect tangible change.

Historically speaking, there is nothing new about corporatized resistance. Both Lawrence Glickman and Michelle Micheletti contend that acts of consumer resistance have been a part of various social movements for hundreds of years.²⁰ For instance, as an outgrowth of boycotts,²¹ boycotts gained popularity in the late nineteenth century when feminist activist Florence Kelly

started the White Label Campaign organized by the National Consumers' League. In an effort to target smart shoppers, she labeled clothing items produced by manufacturers who regulated working hours and refused to hire children under the age of sixteen. In essence, much like Fair Trade certification is used today, Kelly provided transparency to the ethicality of labor practices.²² Accordingly, practices of corporatized resistance have been deeply invested in a number of notable movements involving issues of class, gender, race, and state power. By using shopping to offer political power to women, labeling campaigns like Kelly's came to be associated with women's rights movements. Both Mahatma Gandhi of the Swadeshi movement in India and Dorothy Day's Catholic Workers Movement led campaigns that advocated for boycotting manufactures that aligned with their causes. Most notably marked by the actions involved in the Boston Tea Party and the Montgomery Bus Boycotts, both the American Revolutionary War and Civil Rights Movement leaned heavily on the marketplace to assert political power.²³

However, while acts of corporatized resistance have been deeply integrated into social movements throughout history, corporatized resistance is evolving and flourishing alongside the conditions of neoliberal capitalism. It may now be the *only* practical mode of resistance, infiltrating nearly all domains of protest.²⁴ As Don Slater asserts, within the conditions of neoliberal capitalism, consumer culture became "the dominant mode of cultural reproduction developed in the West over the course of modernity."²⁵ With consumer culture permeating nearly every facet of daily living, scholars such as Dietlind Stole, Marc Hooge, and Michelle Micheletti assert that quantitative data is clearly supporting a phenomenological rise in participation in corporatized resistance. As Roopali Mukherjee and Sarah Banet-Weiser articulate, the large-scale "promise and perils" of "consumer based modes of resistance," have indeed taken shape

“within the dynamics of neoliberal power.”²⁶ Thus, versions of consumer driven activism like Florence Kelly’s labeling campaign have come to evolve alongside the ascent of neoliberal capitalism; practices of corporatized resistance now include categories of organic food labeling, environmentally safe products, and even various modes of ethical banking.²⁷ Indeed, carrying the labels “organic,” “Fair Trade,” “hybrid,” “local,” “recycled,” “free range,” as well as the color labels of green, red, and/or pink, the products of corporatized resistance are being marketed, produced, and consumed in mass. Thus, as Dauvergne and LeBaron assert, the past few decades alone lend evidence to the claim that “the corporatized activism is deepening and accelerating across all causes and cultures.”²⁸

Unthinkable a few decades back, partnerships with big-brand companies—Walmart, McDonald’s, Nike—are now common, even expected. The global [World Wildlife Fund] network of activists, as just one example among many, receives funding from and works closely with the Coca-Cola company. WWF leaders do not hide the reason for joining forces. ‘Coke’ explains Gerald Butts, who at the time was the president and chief executive officer of WWF Canada, ‘is literally more important, when it comes to sustainability, than the United Nations.’²⁹

This ascendancy of corporatized resistance within the conditions of neoliberal capitalism, I contend, also has something to teach us about protest rhetoric.

Protest Rhetoric

Although Edwin Black notably listed movement studies—the umbrella concept under which protest rhetoric fits—as one of the “three distinct approaches to rhetorical criticism,”³⁰ the establishment of protest rhetoric scholarship is largely attributed to Leland Griffin.³¹ Drawing

attention to the need to situate protest rhetoric as a rhetorical sub-discipline, Griffin sought to establish a theoretical groundwork that could explain protest rhetoric writ large. Based on midcentury social movements, Griffin suggested protest rhetoric followed a theoretical formula that could be defined simply by an inception, a progression through crisis, and a termination.³² As protest rhetoric scholarship evolved throughout the 1960s, according to Morris and Browne, the radical protests brought on by the Vietnam War “prompted a great deal of reflection on the sources, character, and limits” of its scholarship. Interestingly, since the 1960s, despite the fact that it has been decades since Black advocated for protest rhetoric as a primary and distinct approach of rhetorical criticism, our discipline still holds no singular definition for protest rhetoric.³³ However, a lack of singular definition is not due to a lack of effort, and a number of debates have emerged over how one might categorize protest rhetoric. These debates have suggested that protest rhetoric be categorized via theoretical, historically descriptive, and phenomenological approaches.³⁴

Robert Cathcart was the first to interrogate assumptions on protest rhetoric and advocated that protest rhetoric be situated within strict theoretical domains. He took issue with Griffin and argued that while Griffin’s definition provided a starting point for scholarship, it was still overly broad. Instead he suggested that rhetorical scholars should look beyond “a historical place,” but towards a *theoretical* framework for all protest rhetoric. Cathcart defined this theoretical framework as a “a dramatic situation where moral strivings for salvation bring human agencies into conflict.”³⁵

It is not the alienation of an out-group alone that produces a movement, for there is always alienation and dissatisfaction in any social order. Rather, it is the formulation of a rhetoric proclaiming that the new order, the more perfect order,

the desired order, cannot come about through the established agencies of change, and this, in turn, produces a counter-rhetoric that exposes the agitators as anarchists or devils of destruction.³⁶

Although some scholars, like Richard Gregg, continued in the line of Cathcart and searched to establish theoretical domains for protest rhetoric, others, like David Zarefsky, suggested that theories of protest rhetoric could not be universalized and must only be situated historically.³⁷

Zarefsky argued that the primary benefits of protest rhetoric scholarship are “not theoretical but historical.” He suggested that theoretical studies on protest rhetoric are significantly less fruitful than historical studies because the idea that historical social movements carry a distinct and ubiquitous form of persuasion is problematic.³⁸ Building from Zarefsky, Richard Jensen, in a study on social movements from the 1940s through the 1990s, asserted that the tactics of protest rhetoric always adapt to “changing times and circumstances” and added that “the historical scholar of social movement rhetoric takes, as given, instances of collective behavior which the sociologist labels a ‘movement’ and then examines their rhetorical dimensions.”³⁹ Accordingly, scholars in the vein of Zarefsky and Jensen sought to move from totalizing theories of protest rhetoric and situate rhetorical scholarship strictly in historical and descriptive contexts.

Entering the debate on historical versus theoretical approaches to protest rhetoric, Michael McGee questioned whether or not the distinctions between the two were in fact fruitful.⁴⁰ Instead, drawing from both sides, McGee proposed that one take a phenomenological approach to social movements in order to situate protest rhetoric. Formerly a staunch advocate of theoretically based approaches to social movements, McGee agreed—in line with Zarefsky—that there was a problem with approaching social movements within a singular categorized

theoretical domain and argued that historical context was key to understanding social movements. Yet, he also argued that social movements produced patterns in protest rhetoric that were evident beyond nuanced historical situations for individual movements. McGee therefore suggested that scholars of protest rhetoric approach rhetorical texts as a type of culturally driven production that is specific to historical contexts.⁴¹

The ascent of corporatized resistance under the conditions of neoliberal capitalism, along with its long lineage with social movements, offers a type of protest that spans across a broad swath of movements, but is also linked to a very specific time period. However, in the long history of protest rhetoric scholarship, relatively little analysis has been done regarding the impact of corporatized resistance on social movements. A number of protest rhetoric scholars—such as Edwin Black, Stephen Howard Browne, Karlyn Kohrs Campbell, Robert Cathcart, James Darsey, Leland Griffin, Michael McGee, Robert Rowland, Herb Simons, Cary Voss, David Zarfesky, and Susan Zaeske—have challenged social movement rhetorics of gender, race, and socio-economic equality.⁴² Yet, the amount of scholarship broaching the practices of corporatized resistance is quite diminutive, despite the fact that the practices of corporatized resistance have been deeply integrated within nearly every social movement over the past hundred years.⁴³ Phaedra Pezzullo, who is one of the few rhetorical scholars to study corporatized resistance as a form of protest, suggests that this paucity in rhetorical scholarship may be due to the fact that the discipline of Rhetoric has traditionally focused on free speech issues or reduced acts of corporatized resistance to merely their economic implications.⁴⁴

Moreover, despite the fact that Griffin notably advocated that studies on protest rhetoric must be based in a “rhetorical theory indigenous to the times,”⁴⁵ and Deirdre McClosky shrewdly suggested that the positivistic maxims that govern discourse about the market are primarily

rhetorical,⁴⁶ there is an odd dearth of scholarship in Rhetorical Studies concerning protest rhetoric in the contexts of contemporary neoliberalism.⁴⁷ The lack of rhetoric scholarship on protest rhetoric under the conditions of neoliberal capitalism is especially troubling because neoliberal capitalism offers an inseparable context for which to understand contemporary protest rhetoric; it must be accounted for. Interestingly, scholars outside of Rhetorical Studies intimate at this fact by suggesting that the conditions of neoliberal capitalism have put a particular emphasis on the *discursive* aspects of corporatized resistance—specifically through branding, marketing, and media production. As Mukherjee and Banet-Weiser articulate, the deployment of corporatized resistance, as a discursive form of protest, has created “a specific kind of product” designed for protest in neoliberal capitalism that spans beyond mere purchase power.⁴⁸ Addressing this emergence, Micheletti and Stole assert that over the past few decades, the economic impact of boycotts has been transformed into an age of discursive resistance, which “targets other vulnerable points within corporations, namely their image, brand names, reputation, and logos.”⁴⁹ Banet-Weiser, for one, draws from practices like the Dove for Women campaign in order to suggest that, within the conditions of neoliberal capitalism, corporate marketing strategies have shifted away from niche consumer markets. Instead they invite consumers to discursively participate in corporate branding as a form of identity construction that unites corporations, individual support, and social causes.⁵⁰

These scholars, along with Pezzullo, agree that the primary reason for an expressed emphasis on the discursive aspects of corporatized resistance is due to the fact that complex modes of production in neoliberal capitalism make the economic and political effects of consumer-driven politics quite difficult to measure. Indeed, modes of corporate production have become so complex that corporatized activism often paradoxically disenfranchises marginalized

workers in the name of social equality. As Wendy Brown asserts, complex neoliberal modes of production “yank the chains of every aspect of Third World existence.”⁵¹ For example, measuring the impact that acts of corporatized resistance have on corporations like Nike, The Gap, or Coca-Cola, is tough when a boycott might instigate manufacturing relocation, which leaves an already impoverished labor force unemployed. Moreover, as Micheletti and Stolle point out, mega-corporations, such as the Walt Disney Company, must manage acts of corporatized resistance on multiple fronts as they deal with protests regarding gay rights, Christian family values, Fair Trade, and minority groups.⁵² Therefore, emphatic rhetorical productions of corporatized resistance allow activists to be more flexible and reactive in their protests. For this reason, Pezzullo, as an advocate for boycotting, calls for scholars to take up examining the rhetorical implications of corporatized resistance.⁵³

Ultimately, as a rhetorical problem, the confluence of neoliberal capitalism and protest rhetoric necessitates that rhetorical scholars rethink protest rhetoric and the categories that have, since the 1950s, been central to our identity as a field: What is protest rhetoric? Whom does it serve? What is the liberating power of protest rhetoric? How is protest rhetoric linked to a totalizing system? How does protest manifest itself as activism in this contemporary era, especially considering the increasingly blurred lines between traditional state-sanctioned politics and the seemingly circuitous politics of the marketplace arena? The answers to these questions are neither simple, nor easily made visible, and an inquiry into the discursive mechanisms of corporatized resistance can be alternatively viewed as an inquiry into the category of *neoliberal protest rhetoric*.

In sum, under the conditions of neoliberal capitalism, corporatized resistance has seen a radical ascent and is becoming increasingly understood within the largely discursive realms of

branding, marketing, and media production. Both this ascent and discursive turn suggest an inextricable relationship between protest rhetoric and neoliberal capitalism—or what I term as neoliberal protest rhetoric. Furthermore, an investigation into neoliberal protest rhetoric illuminates key shifts in the practices of protest rhetoric that can be parsed through the topoi of rugged individualism, corporate privilege, and restructured state power.

Methodology

My methodology is a historically descriptive investigation of neoliberal protest rhetoric that draws from the *performative tradition* of rhetorical analysis. Drawing from James Jasinski's conceptualization of the performative tradition of rhetoric, which seeks to “reconstruct a textual production through a reinvigorated engagement with a context,” this dissertation interrogates the social contexts of traditional neoliberalism that work to enable and constrain Sea Shepherd's protests against the Japanese whaling industry.⁵⁴ Moreover, in line with Michael McGee's ideologically-driven assertion that protest rhetoric is best situated between the historical and theoretical, this analysis of Sea Shepherd's protests elucidates cumulative rhetorical patterns of protest that have emerged within the historical conditions of neoliberal capitalism.⁵⁵ In this manner, I situate Sea Shepherd's protests as a performative text through which rhetorical categories of neoliberal protest rhetoric can be understood.

Jasinski's conceptualization of the performative tradition is a critical method that brings forth the “performative conditions . . . that enable and constrain discursive action.”⁵⁶ As Robert Rowland and John Jones explain, the performative tradition “outlines the range of available themes, forms, strategies, and so forth available to rhetors.”⁵⁷ In this manner, Jasinski suggests that by looking at “particular speaking voices,” “various figurative and argumentative patterns or structures,” and “linguistic idioms” one can see how the performative tradition can evidence

specific rhetorical elements “that may be more or less fully developed or present in different traditions.”⁵⁸ Therefore, in using the performative tradition as a way to examine the rhetoric of Sea Shepherd, this dissertation illustrates how their discourse is enacted through particular speaking voices (activist celebrities); is marked by various figurative and argumentative patterns or structures (racialized propaganda); and/or embodied in a linguistic idiom (piracy). And, in order to best understand how neoliberal patterns of thought influence Sea Shepherd’s discourse, this dissertation also seeks to unmask ideological discourses of power.

In order to unmask hegemonic discourses of power, scholars such as Michael McGee, Phillip Wander, Sharon Crowley, Michael McGuire, Kent Ono, John Sloop, and Raymie McKerrow pushed towards an ideological turn in rhetorical criticism. As Dana Cloud affirms, “In the wake of the ideological turn in critical studies a generation of scholars has crafted a ‘critical rhetoric,’ with the goal of claiming and analyzing discourses as sites of struggle of power.”⁵⁹ However, questions began to arise about the liberating power of ideologically driven rhetorical criticism. For instance, Cloud advocated that ideological criticism must specifically address tangible social change.⁶⁰ “To say that hunger and war are rhetorical is to state the obvious; to suggest that rhetoric is *all* they are is to leave critique behind.”⁶¹ Conversely, scholars such as Ronald Greene suggested that ideologically driven rhetorical critiques should taper their expectations for the liberating power of rhetoric. Drawing from Michel Foucault, Greene criticized Cloud and advocated for a more complete understanding of material rhetoric.⁶² Specifically, he cautioned that the ability of “protest rhetoric to provide the better argument” must not ignore “how a host of political, economic, and military structures intersect creating a border for what defines a ‘better argument.’”⁶³ For this reason, Greene suggested that scholars of

protest rhetoric should map contexts in which protest rhetoric establishes arenas for the acceptance of what is “in the true,” rather than simply trying to unmask truth.⁶⁴

With these concerns in mind, ideological criticism becomes particularly important for studying contemporary practices of corporatized resistance as neoliberal protest rhetoric because it moves the study of protest rhetoric from what Biesecker and Lucaites term an “idealized art” or “simple cause-effect” relationship into practice-driven studies of rhetoric as a *materiality*: “not material in the sense of a ‘thing’ like a rock or tree, but rather as a palpable and undeniable social and political force.”⁶⁵ Positioned as a socio-political force, the study of neoliberal protest rhetoric brings into focus the symbolically driven practices of corporatized resistance that are concurrent with the ideological and praxiological shifts of neoliberal capitalism.⁶⁶ This approach also allows investigation into neoliberal protest rhetoric to move beyond the often-oversimplified analyses of corporatized resistance that Pezzullo contends are especially problematic due to the fact that effects of protest rhetoric regularly span beyond direct “cause-effect” relationships.⁶⁷

Therefore, methodologically, this dissertation provides a historically descriptive exploration that draws from a performative tradition of rhetorical criticism. Specifically, I use the rhetoric of Sea Shepherd’s publicized protests against the Japanese whaling industry (from 2007 to 2015) as a figurative slice of contemporary corporatized resistance that is enabled and constrained by historical and theoretical contexts of neoliberalism. By using Sea Shepherd’s protests against the Japanese whaling industry, I draw from a historically descriptive method that involves analyzing hundreds of mass-mediated articles pertaining to the political successes of Sea Shepherd throughout this past decade; transcribing and analyzing multiple episodes of the Animal Planet broadcast *Whale Wars*; investigating the websites of both Sea Shepherd and Animal Planet; and examining interviews with Sea Shepherd’s most prominent members.

Ultimately, I focus on three key concepts that manifest through a thick reading of their discourse: *celebrity*, *anti-Japanese propaganda*, and *pirates*. Additionally, while this dissertation still seeks to unmask material discourses of power, it also answers the call of Greene and interrogates the conditions of neoliberal capitalism that Sea Shepherd's protests constitutively engage and exploit.⁶⁸ Thus, in the vein of Greene, I illustrate how the relationship between neoliberal capitalism and protest rhetoric struggles as it both produces and resolves its own exigencies of resistance—specifically through the neoliberal topoi of individualism, corporate privilege, and restructured state power.⁶⁹ The final product of this methodological process produces a rhetorical critique that examines neoliberal protest rhetoric as a performance that it is fostered by and formulated from the ideological topoi and historical contexts of traditional neoliberal capitalism.

Context

My text of study is an organization that has produced some of the most media-salient, politically productive, and provocative environmental protest rhetoric over the past decade—that of the Sea Shepherd Conservation Society. Over the past thirty years, despite their rogue and controversial activist tactics, Sea Shepherd has gone from a nearly obsolete offshoot of Greenpeace to a global branding mechanism for environmental activism. Specifically, in the midst of their campaign against the Japanese whaling industry—through the release of documentaries, books, and most notably, their highly popular and award-winning show *Whale Wars*—they have managed to corporatize their activism and become media darlings with immense public and fiscal support.⁷⁰

There are a number of reasons why Sea Shepherd serves as a germane and theoretically rich example of neoliberal protest rhetoric. By using Discovery to produce an immensely successful television show, Sea Shepherd created a consumable entertainment product that vastly

enhanced their political voice. Although some contend, and rightly so, that the political effects of protest are tremendously difficult to quantify, Sea Shepherd's corporate collaboration went beyond merely providing fame for fundraising.⁷¹ In fact, since the inception of *Whale Wars*, Sea Shepherd's protests have been credited for the substantial increase in global pressure to end whaling in the Antarctic seas and have paved the way for prominent political partnerships in both Ecuador and Australia.⁷² As Sea Shepherd's successes have been fostered by an ability to procure viewership on Animal Planet, *Whale Wars*' viewership conversely procures the ad revenue that feeds the for-profit pockets of Discovery. Thus, the relationship between the two is indeed collusive and it ultimately produces a mutually beneficial and discursively driven form of corporatized resistance, or neoliberal protest rhetoric, with strong political implications. In all likelihood, without its for-profit corporate alliance, Sea Shepherd would still be searching for individual whaling ships and struggling as a relatively unknown band of radical environmentalists whose greatest claim to fame is a long-since fractured connection to Greenpeace. Instead, in less than a decade with Discovery, Sea Shepherd's environmental protests against the Japanese whaling industry have positioned them as household name with the potential to steal Greenpeace's crown as the quintessential activists of environmentalism. Therefore, with television entertainment as their primary commodity activist medium, Sea Shepherd's popularity and funding has grown exponentially, making them a ubiquitous force for environmental protest in this era of neoliberal capitalism.⁷³

Although Sea Shepherd's deployment of neoliberal protest rhetoric is neither novel nor entirely unique, their relationship to Greenpeace offers a lineage in which to understand the rhetorical turn in protest that has occurred (and is still occurring) under the conditions of neoliberal capitalism. Unlike many of today's most notable activist organizations involved in

corporatized resistance that were founded in the early part of this millennium—such as the [RED] Campaign, Invisible Children, and TOMS—Sea Shepherd, via Greenpeace, traces its roots back to the dawn of neoliberal capitalism’s ascent.⁷⁴ Due to their protests in the 1970s, explains Scammell, Greenpeace was amongst the earliest to attack corporate images, which opened the “possibilities for the citizen-consumer, differentiating between ethical trade and crass exploitation.”⁷⁵ Accordingly, it was Sea Shepherd founder Paul Watson who played an integral part in founding Greenpeace.⁷⁶

Watson’s tenure with Greenpeace was short-lived. It quickly became apparent that his views on activism—with a particular proclivity for violent resistance—did not mesh with Greenpeace’s “pacifist ethos.” After two years with the organization he was nearly unanimously voted out of the organization; the only dissenting vote was his. He then formed an organization named the Earth Force Society, which eventually became known as Sea Shepherd. Over the next several decades, with ties to Greenpeace long severed, Sea Shepherd traversed the seas as a fringe group of environmental radicals.⁷⁷ However, they differed from Greenpeace on more than just their stance on non-violence. Unlike their predecessors who were known for their corporate opposition, in 2007 Sea Shepherd openly invited corporate partnership for their protests against the Japanese whaling industry. Thus, while Sea Shepherd’s protests can be traced back to the 1970s, this dissertation is primarily fixated on their campaign against the Japanese whaling industry, which primarily began in 2007.

As Sea Shepherd’s protests attacked the Japanese whaling industry, the Japanese government has adamantly championed whaling practices as integral to cultural identity.⁷⁸ Yet, the arguments for whaling as a part of Japanese cultural identity ignore a multitude of factors that suggest otherwise. For example, the sanctity of whales have been revered and protected in

Japanese cultural traditions as “gods of good fortune” who “brought happiness and good catch to coastal fishing communities.”⁷⁹ Historically, only fishing communities have eaten whale meat, which leaves little precedent for large-scale national consumption. In fact, in ancient times, the fishing communities who ate whale meat only killed “stranded” whales and viewed them as “random gifts from the sea.”⁸⁰ Commercial whaling was not an ancient practice and emerged in modern times, only flourishing post-World War II, due to U.S. pressure to use whale meat to absolve food shortages.⁸¹ Even many of the fishing villages that benefit from the whaling industry have opposed commercial whaling due to issues of sustainability. In fact, in 1987, the commercial whaling industry was forced to reconcile with issues of sustainability, which began to publically emerge in the early 1970s, and drastically altered the then 81-year-old modern history of whaling.⁸² In essence, although whaling has since resumed, in the words of Morikawa, “looking back over Japan’s 2,000-year history, it is clear that deep-sea commercial whaling is one of Japan’s most recent ‘traditions,’ but one that the government is determined to uphold.”⁸³

The reasons *why* the Japanese government and subsidiary whaling corporations are so adamant about sustaining the whaling industry are unclear. Indeed, the Japanese whaling industry has been quite “secretive” in regards to both the results of its supposed research and the net worth of whaling’s capital.⁸⁴ Interestingly, one might assume that the “large amounts of unsold whale meat from previous research whaling expeditions [that] lie unsold in warehouses” might cause Japan’s domestic publics to scrutinize the whaling industry. However, as Morikawa contends, “those promoting whaling policies have made it difficult for the Japanese public to increase their awareness and obtain information on whaling that does not favor the governments arguments.” Moreover, the collusive relationship between the Japanese government and whaling corporations offer strong

control of “domestic mass media.” Morikawa mentions that Sea Shepherd serves as a prime example of how the Japanese whaling industry works to use its detractors efforts to further their pro-whaling political stance. “Ironically, while [Sea Shepherd’s] protests succeeded in disrupting the whaling fleet’s activities and irritating Japanese officialdom,” explains Morikawa, “they were also used successfully by the government to its own advantage on the public relations front.”⁸⁵ Thus, Sea Shepherd’s protests offered a platform for the Japanese whaling industry to label anti-whaling groups as “terrorists,” polemically reducing further domestic reflection concerning Japan’s whaling practices.

Ultimately, Sea Shepherd’s protests position them in an alliance with the transnational corporation Discovery in order to facilitate a mass-mediated fight to abolish the Japanese whaling industry. This unlikely move into corporatized activism has allowed them to put strong international pressure against the Japanese whaling industry. However, this move has also led to a visceral reaction from the Japanese whaling industry on the basis of cultural history, eviscerating critical whaling discourse from manifesting within its domestic publics.

Synopsis

This dissertation therefore analyzes Sea Shepherd’s activism as a synechdochical example of the marriage of protest rhetoric and neoliberal capitalism. As Sea Shepherd’s discourse engages and exploits the conditions of neoliberal capitalism, I strive to uphold critical rhetoric’s task of unmasking discourses of material subjectivity and power, while also seeking to map the paradigms that are inherent in protest rhetoric.⁸⁶

Specifically, I offer three vignettes of the Sea Shepherd Conservation Society’s campaign against the Japanese whaling industry. All three vignettes explain one instance in which

neoliberal protest rhetoric navigates, and oftentimes exploits, a particular topos of neoliberal capitalism for the purposes of resistance. In chapter two, I contend that Sea Shepherd's protests evidence a shift in protest rhetoric that places particular emphasis on celebrity individualism. While protest rhetoric has long celebrated the faces of its various movements with token "poster child" personalities, Sea Shepherd's protests suggest a shift towards celebrity glamorization that comes at the *expense* of its grassroots supporters. In chapter three, I interrogate a racialized discourse that manifests, in the vein of WWII anti-Japanese propaganda, in Sea Shepherd's protests. Here, I assert that Sea Shepherd's racialization enacts a sense of privilege that is made especially available through the corporatized production of *Whale Wars*. Finally, in chapter four, I use a debate over the ontology of the pirate as a means to illustrate the extent to which protesting publics can be delegitimized by regulatory state power.

In sum, one might ask, what can an interrogation of the concepts of "celebrity," "propaganda," and "pirates" teach us about protest rhetoric? I contend that these concepts offer inroads to understanding the distinguishing factors that mark an inextricable relationship between protest rhetoric and neoliberal capitalism. In this manner, the protests of Sea Shepherd against the Japanese whaling industry offers a tangible text for which the story about the twenty-first century marriage of protest rhetoric to neoliberal capitalism can be told.

Chapter 2

A Man Without a Movement: Paul Watson and the Celebration of the Activist Celebrity in Neoliberal Protest Rhetoric

I believe that what self-centered have torn down, other-centered can build up.

—Martin Luther King, Jr.⁸⁷

What I've dared, I've willed; and what I've willed, I'll do! They think me mad – Starbuck does; but I'm demoniac, I am madness maddened! That wild madness that's only calm to comprehend itself! The prophecy was that I should be dismembered; and – Aye! I lost this leg. I now prophesy that I will dismember my dismemberer.

—Captain Ahab, *Moby Dick*⁸⁸

Throughout the twentieth century, the faces at the forefront of social protests inspired the masses, garnered collective support, and paved the way for large-scale social change. Indeed, much of Rhetorical Studies scholarship is deeply indebted to activist trailblazers such as Martin Luther King Jr., W. E. B. Du Bois, Carrie Chapman Catt, Dorothy Day, Audre Lorde, and Harvey Milk. Their lives shaped our understanding of civil rights, suffrage, labor, and LGBTQ protests. These figureheads of protest denounced notions of individualism and were known for an ability to empower their grassroots collective. As exemplified by the words of King, “other-centered” peoples were essential to rebuild a society that has been devastated by “self-centered” individuals.⁸⁹

However, in the twenty-first century, under the conditions of neoliberalism, there has been an emphatic shift in protest rhetoric away from the efforts of grassroots collectives and towards that of activist individualism. Taken to the extreme, this shift posits a type of radical

individualism that defines the self narrowly, as Ana Louise Keating explains, in “non-relational,” “egocentric” and “possessive” terms.⁹⁰ This sense of radical individualism, I contend, threatens the future of protest movements and is particularly evidenced by the commonplace discourses of today’s most prolific protagonists of protest—*the activist celebrity*. Therefore, in this chapter, I interrogate the confluence of activist individualism and the modulation of the activist celebrity under the emerging conditions of neoliberal capitalism. In doing so, I assert that the perpetuation of radical individualism by activist celebrities runs contrariwise to the efforts of grassroots collectives, whom were led by the twentieth century’s most notable activists, and ultimately endangers the future of collective activism that has long been crucial to protest movements.

The 20th Century’s Protagonists of Protest

The predominant leaders of the most prolific protests of the twentieth century advocated for staunch communal engagement and vehemently opposed notions of activist individualism. Indeed, those at the forefront of Civil Rights, suffrage, labor, and LGBTQ protests took collective activist engagement seriously, championed grassroots efforts as a focal point, and overtly derided the systemic issues of self-centered individualism that are readily glamorized in the corporatized activism of advanced capitalism.

Leaders of the Civil Rights movement, for instance, drew deeply on a sense of collective identity, chastised those who held the rights of the individual above their communities, and even advocated for a collective socialist directive as an integral part of the movement. The rhetoric of King was driven by a communal protest view that stood against notions of capitalist-driven individualism. As David Howard-Pitney explains in his *Afro-American Jeremiad*, King’s rhetoric articulated a sense of “*communitas*” or “common identity” that suspended “social boundaries and divisions” and “called for social groups” to do “their moral duty” by engaging within the

movement.⁹¹ Moreover, King's push for collective protest ran directly against capitalist-centric individuals and called out those who would empty the "content of democracy" by acquiescing to the self-centered interests of "gargantuan industry and government."⁹² Similarly, others such as W. E. B. Du Bois and Malcolm X stood against notions of individualism and even advocated for pro-socialist ideals. Notions of a black "brotherhood" were salient throughout X's rhetoric, and Du Bois advocated against "U.S.-led transnational capitalism" while openly advocating that African American publics embrace a non-racialized version of "international socialism."⁹³

The protests of labor, suffrage, and LGBTQ groups were also marked with a grassroots directive that disavowed notions of individualism. For instance, in a well-circulated 1935 editorial for *The Catholic Worker*, Dorothy Day advocated for the community of social protests and against capitalist individualism. "The age of individualism, laissez faire industrialism and self-seeking capitalism is dead and gone," she proclaimed.

Men are beginning to realize that they are not individuals but *persons* in society, that man alone is weak and adrift, that he must seek strength in common action.

The Mystical Body of Christ is a union—a unit—and action within the Body is common action. In the Liturgy we have the means to teach Catholics, thrown apart by Individualism into snobbery, apathy, prejudice, blind unreason, that they ARE members of one body and that 'an injury to one is an injury to all.'⁹⁴

Likewise, both suffrage and LGBTQ movements have articulated similar stances in their protests for gender equality. "Emboldened by the power of their collective might and muscle in the war," Carrie Chapman Catt proclaimed, "like the builders of old, women must chant: Ho! All hands, all hands heave to! and...grasp the overhanging roof with a long pull, a strong pull and a pull together, fix it in place forevermore."⁹⁵

Similarly, Karen Foss suggests that Harvey Milk's political success as an LGBTQ activist can be attributed to his ability to build a community. "Through his rhetoric," she states, "he constructed a queer world in which the possibilities for freedom, identification, and inclusion were privileged and could be used to co-construct a different meaning of community for San Francisco."⁹⁶ Additionally, Lester Olsen points out that Audre Lorde, the leader of protests in support of women's, LGBTQ, and racial equality throughout the 1970s, openly chastised "problematic investments in individualism." In her 1982 address during Harvard's Malcolm X Weekend, she exclaimed, "Can any one of us here still afford to believe that efforts to reclaim the future can be private or individual?"⁹⁷

The grassroots supporters of the aforementioned movements stood in solidarity with their leaders as they propelled their protests. Indeed, rhetorics of "individualism" and "self-seeking capitalism" were denounced and readily replaced with emphases on "communitas," "community," and other notions of unanimous collective activism. This is not to say there were not in-group divisions within widespread protests. However, these divisions were oftentimes in reference to the pragmatics of a movement, not in reference to the grand *telos* of a movement—and definitely not between a leader and their collective activist supporters.⁹⁸ Thus, with the ascent of the activist celebrity under the conditions of twenty-first century neoliberal capitalism, a demonstrative disconnect has emerged, which divides protest leaders and their engaged activist supporters.

Individualism, Activism, and Celebrity

Although the practices of boycotts and buycotts have long been integrated into the aforementioned protests of the twentieth century, the twenty-first century has seen a categorical shift in similar practices—moving from a concentration on collective organization towards a

sense of individualistic empowerment that is rooted in corporate collusion.⁹⁹ This individualistic shift becomes especially illuminated through an interrogation of the twenty-first century activist celebrity. The activist celebrity of neoliberal protest finds its roots in the twentieth-century faces of past protest, and like their predecessors, the activist celebrity is publically celebrated (and even vehemently denounced) for an ability to incite widespread acceptance of a cause. However, unlike the faces of twentieth-century protests, the activist celebrity embraces notions of self-centered enterprise in her or his protests that are situated in the topos of neoliberal individualism.

As Michael Peters and James Marshall articulate, neoliberalism's "most fundamental and unifying premise" is that of "individualism."¹⁰⁰ The political ideals of "individual freedom" were fundamental to the "founding figures of neoliberal thought," David Harvey explains.¹⁰¹ Aihwa Ong contends that this sense of neoliberal individualism is marked by a "primitive" sense of social competitiveness, where the self-centered individual is celebrated for his or her ability to overcome surroundings via one's enterprising acumen. Thus, as neoliberalism's driving force, she explains that the topos of neoliberal individualism has led to a widespread recirculation of the Horatio Alger "rags to riches" story of entrepreneurial success.¹⁰² In this manner, the topos of neoliberal individualism that plays out through the twenty-first-century activist celebrity can be thought of as having three foundational pillars, namely a glamorization of individual empowerment, the subsequent abjuration of collective support, and an emphasis on entrepreneurial success as a means to overcome all social ills.

A number of scholars have indeed argued that acts of protest in the twenty-first century have moved from collectivist struggles to movements with a strong individualistic bent.¹⁰³ Pointing to consumer-driven protests, for instance, Radha Hedge asserts, "packaging market-driven interests as social values, neoliberalism reshuffles the meaning of public responsibility

and citizenship into the language of private choices and entitlements.”¹⁰⁴ Similarly, Mukherjee and Banet-Weiser contend that under the conditions of neoliberal capitalism, the collective conditions of grassroots protest are waning:

The confluence of [neoliberal] economic and cultural forces advanced a nation of consumer-citizens, perhaps most visibly represented in the ever-growing divides between rich and poor, moral panics, scapegoating ‘welfare queens’ and other state dependents, and cultural mythologies celebrating individually-minded folks bent on ‘enterprising themselves’ rather than collective action and social justice.¹⁰⁵

Although the aforementioned scholars have examined individualism and activism within the ascent of neoliberal capitalism, their scholarship has been primarily dedicated to consumer practices. While this scholarship is incredibly helpful in understanding the confluence of consumerism, individualism, and protest, it leaves much to be desired in regards to the celebrity activists who are inextricably involved in the parturition of consumer-oriented activist individualism.

Although Rhetorical scholarship on persona and/or protest might seem like a natural fit for understanding the nature of celebrity-driven consumer protests under the conditions of neoliberal capitalism, there is a dearth of scholarship on the activist celebrity persona. Charles Morris explains that the examination of persona, in regards to “the complex process by which persona expresses identity and exposes the cultural contexts that help determine and, in many cases, silence it” has been dramatically understudied in Rhetorical scholarship.¹⁰⁶ Dana Cloud, who draws upon Dyer’s notions of celebrity individualism in her analysis of Oprah and tokenist rhetoric, stands as the sole surveyor of the rhetorical implications of an individualism and

celebrity persona. However, despite Oprah's overt political inclinations, Cloud's analysis spends little time on the connections between celebrity individualism and the political protest.

Therefore, this chapter on celebrity, individualism, and consumer protest seeks to add to the scholarly plight of protest Rhetorical scholarship by interrogating the construction of the twenty-first-century celebrity persona and exposing its potential pitfalls under conditions of neoliberal capitalism.

The confluence of celebrity, protest, and consumerism are not slight. A number of the twenty-first century's most notable activists have either achieved fame or accentuated their stardom by colluding with for-profit corporations who deploy their personas for branding, marketing, and other commercial ventures. Organizations like the [RED] campaign, TOMS shoes, and Starbuck's Ethos water offer a small but salient sample of the rugged rhetors personified within neoliberalism. For example, perennial rock-star-activist Bono has long stood as the proverbial poster-child for neoliberal humanitarianism with his [RED] campaign, an activist-centric corporate branding mechanism designed to work with corporations in order to alleviate issues of poverty on the African continent.¹⁰⁷ As exemplified by the *New York Times* Best Seller *Start Something That Matters*, the upstart philanthropic narrative of CEO Blake Mycoskie of TOMS shoes has been instrumental to the explosive growth of his for-profit activist organization.¹⁰⁸ His book tells the story of his organization, a for-profit shoe company that matches every purchase by outfitting an impoverished child with a pair of new shoes. In it, he starts with a note to the reader that glamorizes an individualistic foray into entrepreneurialism as way to engage activism. He writes:

Friend,

The reason for this book is simple. I want to share the knowledge we have gained since starting TOMS, and from the amazing group of entrepreneurs and activists I have met along the way whom I have learned so much from. Their stories, as well as mine, are told in this book with the aim of inspiring, entreating, and challenging *you* to start something that matters . . . ¹⁰⁹

Similarly, Starbucks was quick to capitalize off of Peter Thum and Jonathan Greenblatt's popular enterprising do-gooder narrative by acquiring their Ethos Water for nearly \$8 million in 2005.¹¹⁰ Moreover, even notable activists who are not directly involved in the production of a consumable activist-oriented product are being coopted for individualistic endeavors at large. Apple, in addition to their unswerving collaboration with Bono and the [RED] campaign, has long capitalized off notable activists. Their 1997 Super Bowl advertisement, titled *Here's to the Crazy Ones*, featured the likeness of Martin Luther King Jr. and Mahatma Gandhi as those who could "think different" in order to "change the world."¹¹¹ A more recent example is their commercial, short film, and advertised website space (i.e. apple.com/jason) that is dedicated to popular Detroit community activist Jason Hall. Titled *Organizing a Movement*, Apple's short film goes through the day in the life of Hall and features Apple's latest iPad as the tool that helps Hall organize the undertakings of *his* movement.¹¹² Unsurprisingly, competitor Microsoft has also engaged in their own celebrity activist campaigns. Notably, in 2013, they released a commercial that capitalized off the fame of both Nobel Peace Prize winner Malala Yousafzai and LGBTQ activist Edith Windsor, whose federal suit was key to passing the Defense of Marriage Act. Set to the tune of the pop-hit "Brave," Apple competitor Microsoft conspicuously deployed the activist personas to advertise its Bing search engine while congratulating the activists on their achievements.¹¹³

Although the aforementioned activist celebrities offer entry points for which to understand the confluence of protest, celebrity persona, and capital within the advancement of neoliberal capitalism, this chapter brings under its lens the quintessential activist celebrity of environmentalism—Sea Shepherd Captain Paul Watson.¹¹⁴ “Paul Watson is,” affirms *The Telegraph*, “the nearest thing the environmental movement has to an action hero.”¹¹⁵ Through a strategic alliance with Discovery Communications Inc. (Discovery), Watson went beyond merely starring in advertisements (like Hall, Youssafzi, and Windsor) and starred in his own television show, *Whale Wars*. The show, which mixes environmental activism with reality television, moved him from the periphery of environmentalism to the limelight of celebrity stardom. As Nancy DeWolf Smith of the *Wall Street Journal* deftly describes the show, it is “a hagiography, with rock music to underscore praise for ‘the legend in the environmental movement.’”¹¹⁶ Thus, while Watson had made several stabs at activist fame throughout the 1990s, it was the success of *Whale Wars* that made him a world-renown star and the preeminent face of environmental activism for the twenty-first century.¹¹⁶ Alongside the rise of *Whale Wars*, Watson’s subsequent A-list celebrity status has allowed him to publically align himself with some of world’s most notable stars—including Mick Jagger, Martin Sheen, Uma Thurman, Pierce Brosnan, William Shatner, Orlando Bloom, Edward Norton, Billy Corrigan, Christian Bale, and more.¹¹⁷ Watson even includes the Dalai Lama in his entourage.¹¹⁸ In fact, Watson’s celebrity affiliations have become so widespread that Animal Planet and Discovery rival, National Geographic, adopted the term “Sea-lebrities” in praise for the ubiquitous nature of Watson’s star-studded support.¹¹⁹ And understandably, Watson’s rise to celebrity fame has allowed him to generate celebrity donations in mass. These donations led to the establishment of a mighty Sea Shepherd fleet; their boats named after other public notables such as Steve Irwin (the now deceased star of *The Crocodile*

Hunter), Bob Barker (the longtime host of the *Price is Right*), Brigitte Bardot (an iconic actress of the 1950s and 1960s), Ady Gil (a notable billionaire philanthropist), and Sam Simon (the Emmy and Peabody award-winning co-creator of *The Simpsons*). Ultimately, by the end of 2008, with the success of the *Whale Wars* and Sea Shepherd's ensuing protests, Watson had moved from an ostracized radical environmentalist in the 1970s to celebrity activist prominence.

This chapter's investigation of consumerism, neoliberal individualism, and the twenty-first century activist celebrity therefore draws upon the protests of the Sea Shepherd Conservation Society and places an expressed emphasis on the persona of their founder, captain, and president. In order to explore Watson's persona, this chapter uses a close reading of noteworthy journalist Raffi Khatchadorian's *New Yorker* articles on Sea Shepherd and an in-depth examination of the *Whale Wars* television series. Using Khatchadorian's articles to bracket *Whale Wars*' success (as the first came before and after the series' inception and the final article came before what was initially perceived to be the series finale), this examination of the construction of Paul Watson's activist celebrity persona elucidates a neoliberal version of activist success—a cutthroat form of protest that praises the enterprise of an individual at the cost of collective resistance.

Although Watson's rise to celebrity status via his activist pursuits positioned him as the face of a movement, he was unlike the figureheads of past social movements. In the midst of garnering the donations, funding, and media presence that gave life to his fame, his tale suggests a type of individualism that was openly decried by the activist leaders of the twentieth century. Indeed, Watson offers a dissenting narrative of neoliberal individualism that is very much unlike the faces of protests' past. Thus, I contend that this interrogation of Watson's activist celebrity persona showcases how the glamorization of individual empowerment can cause the subsequent

abjuration of collective support when an emphasis on entrepreneurial success is offered as the means to overcome all social ills—nevertheless problematizing the future of collective grassroots struggle in neoliberal protest rhetoric.

The Rise of an Activist Celebrity

Paul Watson's rise to fame can be understood through a topos of neoliberal individualism that celebrates the enterprising individual at the cost of grassroots support. His persona is reminiscent of the Horatio Alger-esque narrative of the self-made man and his tale is that of a media-savvy lone wolf who overcame the conditions of his upbringing to forge a path to activist stardom. Moreover, he is praised for the enterprising successes that allowed him to generate publicity and widespread support for his causes. Yet, Watson's individualistic drive ultimately alienates his activist collaborators, especially as his enterprising spirit is marked by an ability to trade the livelihood of Sea Shepherd's engaged activist supporters for the spotlight.

A Big Year

The pursuit was in full force and a storm was brewing in the black predawn of the icy Antarctic abyss. Activists from the Sea Shepherd Conservation Society were closing in on the largest ship of the Japanese whaling fleet—the *Nisshin Maru*. As Sea Shepherd drew near the Japanese whaling ship they began to deploy an all-out attack. Some crewmembers pelted the boat with stink bombs, nail guns, and slippery cellulose powder; others hurriedly jumped into the dinky motorized life rafts known as zodiacs. Despite the swirling snow and increasingly treacherous swell, the zodiac crews were attempting to use their maneuverability to fowl up the *Nisshin Maru's* propeller with a knotted chain of ropes. However, in the midst of the storm, a crisis quickly ensued.

Amidst the melting ice and ocean spray in the foggy darkness, one of the zodiacs had gone missing. As the larger Sea Shepherd boat searched in the blackness for the tiny zodiac, they quickly realized that the miniscule boat was bereft of flares—leaving them practically invisible in the storm. In his prominent *New Yorker* piece, Raffi Khatchadourian wrote that in this moment Sea Shepherd Captain Paul Watson was faced with a dire decision. He could search for the zodiac and lose the large, yet speedy, *Nisshin Maru* in the chase; or, he could leave the crew at the mercy of the vast, frigid, and turbulent Antarctic seas. With little hesitation, Watson made an executive decision: he left his crew behind. “A lot of people were freaking out,” the Captain would later recall, “[b]ut . . . I didn’t want the Japanese fleet to get away.”¹²⁰

Watson’s decision left the crewmembers in peril. “[T]he missing zodiac was badly damaged,” explained Khatchadourian, “It was old and had not been well maintained, and it had slammed into a wave and cracked its hull.” As the boat began to sink, a flood of hypothermia-inducing seawater destroyed the zodiac’s radio.¹²¹ Interestingly, amidst the chaotic chase, the *Nisshin Maru*, responded to a distress call sent out by Sea Shepherd on behalf of the missing zodiac. Despite being attacked by Sea Shepherd, the *Nisshin Maru* sought to help locate the Sea Shepherd crewmembers that Watson had left behind in the chase. Those aboard the sinking zodiac would spend the next nine hours fighting for their lives. However, almost miraculously, the daylight allowed another Sea Shepherd boat to spot the tiny zodiac and save them from impending death. Although the crewmembers were injured, the rescue saved them from being fodder for a worldwide story of activist causality in the line of duty. Yet, much to Watson’s chagrin, despite his decision to risk the lives of the Sea Shepherd activists, the *Nisshin Maru*, “which had joined in the search,” escaped into the storm.¹²²

Prominent writer Raffi Khatchadourian focused on this story in November 2007 as a part of his *New Yorker* exposé on Sea Shepherd, which was titled *Neptune's Navy: Paul Watson's Wild Crusade to Save the Oceans*. Subsequently, 2008 was a big year for Sea Shepherd. Khatchadourian's essay was honored by an inclusion in Dave Egger's volume of *The Best American Non-Required Reading*. Shortly thereafter, Discovery's Animal Planet channel featured Sea Shepherd's radical protests through the premiere of a new series by the name of *Whale Wars*.¹²³ The show was a huge success and in less than twelve months after the *New Yorker* feature, Sea Shepherd had transitioned from a fringe group of environmental activists to one of the most recognizable activist organizations in the world. At the epicenter of Sea Shepherd's rapidly increasing notoriety stood a man and his protest movement, Captain Paul Watson, destined to be a star and obsessed with the camera—which he regularly refers to as “the largest weapon . . . in the world.”¹²⁴ As the show exploded over the next seven years, stories that were strikingly similar to the aforementioned tale of Sea Shepherd crewmembers nearly losing their lives, per Watson's directive, would be repeated for a global audience.

Sea Shepherd's protest rhetoric provides a tremendous example of the celebration of the activist celebrity. Before Khatchadourian's feature and the widespread popularity of *Whale Wars*, Sea Shepherd had been known in environmental circles as a fringe group of Greenpeace castoffs. As a fringe group, Sea Shepherd had garnered some minor political successes over the first few decades of their existence, but had failed to incite large-scale environmental change.¹²⁵ Accordingly, when Sea Shepherd decided to take on the Japanese whaling industry, they only managed two campaigns with fleeting success. After months of searching in their 2002 campaign, they failed to locate any Japanese whaling ships. In 2005, after obtaining the use of a helicopter, they attempted once again to disrupt Japanese whaling activity. This time Sea

Shepherd managed to actually find two Japanese whaling ships. However, the Sea Shepherd activists were only able to catch up to the Japanese whaling ships for a few weeks before being detained by South African authorities—ending another lackluster protest campaign.¹²⁶

It was not until 2007 that Sea Shepherd’s protests began to have a major impact on the Japanese whaling industry.¹²⁷ With their limited success in mind, Sea Shepherd Captain Paul Watson pitched Sea Shepherd’s activist ventures as a reality television show.¹²⁸ Most television networks initially rejected Watson’s idea. “Everybody was afraid to touch it, legally and politically, and they thought it would offend the Japanese,” stated Watson.¹²⁹ However, the president of Discovery’s Animal Planet Channel, Marjorie Kaplan, thought otherwise. She elected to take on the project, and used their new show, *Whale Wars*, to rebrand Animal Planet for adult viewership. “Animal Planet had been a family-friendly destination, and *Whale Wars* was a great example of where we wanted to go into competitive adult TV,” she explained.¹³⁰

After strategically provoking several newsworthy incidents before the show was even aired, *Whale Wars* became an instant hit. The *Whale Wars* series premiere created such a stir that by only its second show it set a five-year record for Animal Planet viewership. By the third season, *Whale Wars* stood as the second most popular show in Animal Planet’s lineup.¹³¹ In addition to its strong ratings, *Whale Wars* also received critical acclaim—including nominations for six Emmys and two American Cinema Editors awards.¹³² Indeed, the show lived up to President Kaplan’s endorsement as a “central” and “brand definitional” component to Animal Planet’s image.¹³³

The Birth of an Activist Legend and The Glamorization of Individual Empowerment

In the Khatchadourian article, Watson’s foundational role with Greenpeace offers a starting place for a Horatio Alger-esque tale of a rugged individualist who was willing to do

whatever it takes to achieve success. Leading into Watson's self-described anecdotes of his upbringing, Khatchadourian is quick to remind the reader that Watson's recollection of his past may be exaggerated, due to Watson's predilection for the type of self-publicity that regularly mixes "propaganda with action."¹³⁴ When Watson describes his background, Katchadourian asserts, the Sea Shepherd leader seems "unable to discuss his personal history without giving it mythic contours."¹³⁵ In this manner, "Watson has a habit of blending fact with rhetoric" and "through embellishment" he uses "his adventures to construct an indomitable persona."¹³⁶

The beginnings of Watson's self-proclaimed "mythic" past start with him as an "ecowarrior before puberty."¹³⁷ He would regularly get picked on in school for his aggressive defense of animals and once shot a boy with a BB gun who was about to kill a bird. He lost his mother in his early teens; a few years later, during a quarrel, he pummeled his physically abusive father and ran away from home. He spent the next years as a vagrant in Vancouver, which he described as a 1960s "haven for political radicals." While there, Watson made a stab at going to college, but after a few run-ins with the police, he joined the merchant marines. Likewise, his adventures with the merchant marines include a multitude of historic encounters evocative of *Forrest Gump*: he watched the bombings in Vietnam from the South China Sea, read Conrad's *Typhoon* while in an actual typhoon, and was even brutally tortured by Shah security agents in Iran. Yet, after several years at sea, Watson returned to Vancouver and became heavily involved in various protests where he "was among the angriest radicals." Finally, after nearly a decade as a vagabond political radical, Watson helped found Greenpeace.¹³⁸

According to Khatchadourian, Watson often draws upon his foundational role with Greenpeace in interviews and regularly refers to a life-changing story that he's retold "countless times." This story frames Watson as a rogue member of a young Greenpeace who encouraged

another member to sneak away with him in order to confront a gargantuan Soviet whaling fleet in a tiny zodiac boat. As they approached the ships, they watched as a harpoon whizzed above their heads and sank into the flesh of a sperm whale. The injured whale reacted by charging towards their miniscule boat. Yet, immediately before destroying the men and their boat, the dying sperm whale made eye contact, seemingly expressed a sense of compassionate recognition, and succinctly stopped in its tracks. After this experience, the men “were overcome with emotion”—the encounter still moves Watson to this day. To commemorate this experience, Watson composed a sixteen hundred-line poem; in the conclusion, the poem reads that the “leviathan’s solitary eye haunts [him] still.” Like a Captain Ahab from a parallel universe, the poem’s final words champion an experience that has left Watson “obsessed and driven mad with anger.”¹³⁹

Despite the fact that Watson’s whale encounter “generated widespread publicity and donations” for Greenpeace, he was expelled within two years of the organization’s upstart.¹⁴⁰ The reason he was ousted, explained Khatchadourian, was ultimately due to an anti-sealing protest in Canada. During their protests, Watson attacked a sealer and threw his pelts and club in the water. This was the tipping point for Greenpeace. The organization with nonviolence in their namesake decided that they could no longer stomach Watson’s aggressive actions. “Many board members believed that Watson’s actions violated the group’s pacifist ethos,” explained Khatchadourian.¹⁴¹ One of those who voted him out was Robert Hunter, a journalist and Greenpeace’s most influential member. “No one doubted his courage for a moment. He was a great warrior-brother,” remarked Hunter. Yet, as Hunter explained, “in terms of the Greenpeace gestalt, [Watson] seemed possessed by too powerful a drive, too unrelenting a desire to push himself front and center, shouldering everyone else aside.”¹⁴²

Paul Watson's eventual role on *Whale Wars* more than verified Hunter's concern with Watson's desire to "push himself front and center."¹⁴³ In describing Watson's split from Greenpeace, the narrator frames Watson's split as being crucial to the entrepreneurial spirit that allowed him to become a "legend in the environmental movement."

[Watson's] aggressive tactics caused trouble and he was asked to leave Greenpeace by a vote of 11-1—his being the only dissenting vote. So he started his own organization, Sea Shepherd, and he makes his own rules. He is a man who will die for the whales, and he expects his crew to do the same.

The second episode of *Whale Wars* starts by paring portraits of Watson as an adventuresome hero of environmentalism with a brief synopsis that reifies the sense of entrepreneurship that led to the founding of Sea Shepherd:

The Sea Shepherds . . . intend to do everything in their power to stop the killing of whales. Their captain Paul Watson was a co-founder of Greenpeace before he was asked to leave because of his aggressive tactics. He then founded Sea Shepherd, and for the last thirty years he has been fighting to save animals from death by human hands.

In this manner, the *Whale Wars* narrator established Watson's legendary status via his formative relationship with Greenpeace, his subsequent departure, and eventual upstart launch of Sea Shepherd.¹⁴⁴ Yet, this glamorized narrative of Watson's entrepreneurial acumen would never gain traction if *Whale Wars* failed to become a hit. Cast front and center, with the ethos of Watson's "legendary" status now established by the narrator, Watson needed to perpetuate that "indomitable" protest persona that Katchadourian had

once described. And he did so—forging his path to stardom on the backs of his activist supporters.

As Wendy Brown argues, narratives of neoliberal individualism glamorize the political causes of the individual at the expense of collective struggle.¹⁴⁵ Likewise, Watson’s activist celebrity persona overtly separates him from his collective activist supporters. Congruent with Watson’s Horatio Alger mythos, the narratives of his beginnings evidence a glamorized individualistic activist-celebrity persona that leans heavily upon his eco-driven entrepreneurial success as a means to overcome all social ills. Thus, his tumultuous relationship with Greenpeace positions him as an independent upstart activist, which accentuates this rugged-individualist persona by distancing him from the grassroots mantra of Greenpeace’s collectivist protests. Ultimately Brown suggests that notions of neoliberal individualism fashion a “body politic” that “ceases to be a body, but is, rather, a group of individual entrepreneurs and consumers.”¹⁴⁶ This polemic frame of entrepreneurs and consumers offers a lens for understanding Watson’s protest. His activist celebrity persona cannot be separated from his entrepreneurial ethos—it is his primary product. And that product necessitates consumers, rather, his viewers, as a means to success while negating the “body politic” of his activist collaborators.

Celebrity Activist Individualism and the Abjuration of Collective Support

The grassroots volunteers of Sea Shepherd are regularly filmed as the crew and cast of *Whale Wars*.¹⁴⁷ However, unlike the notable activists of the twentieth century, Watson garners the support of the public at the *expense* of his grassroots supporters. Accordingly, encounters like

the 2007 chase of the *Nisshin Maru*—where Watson’s reckless directive almost killed two of his activist crewmembers—repeated themselves throughout the *Whale Wars* series.

Although *Whale Wars*’ narrator foregrounds the danger of Sea Shepherd’s protests by explaining that Watson is “a man who will die for the whales,” it is not Watson’s life that is perpetually jeopardized—it is his crew’s.¹⁴⁸ In this manner, instead of raising up his activist collective, the lives of Watson’s Sea Shepherd supporters became displaced as commoditized fodder for the television ratings that fed his stardom. As the *Telegraph* asserts in their synopsis of the show, the “dramatic tension” of *Whale Wars* comes mainly from watching Watson’s crew. “You watch it on the edge of your seat, shaking your head and clasping it from time to time, waiting to see what will go wrong next and if it will get someone killed.”¹⁴⁹ Ultimately, the disjunction between Watson and his crew illustrates his individualistic bent and illuminates the relative ease in which he exchanges the livelihood of his grassroots Sea Shepherd supporters to garner the ratings that feed his stardom.

It did not take long for Watson to drum up an incident with even more risk than the 2007 debacle and two particular “hostage” situations effectively illustrate how Watson’s stardom comes at the cost of collective support. The first began in the series premiere and set the pace for the type of risky protests that encapsulated Sea Shepherd lives throughout the ensuing series. “Sea Shepherd founder Paul Watson is notorious for thinking up new ways to harass the Japanese whalers,” previews the narrator. “This year, he’s come up with his most aggressive plan yet,” he adds emphatically.¹⁵⁰ This aggressive plan is a staged hostage situation where Watson decides he is going to try and sneak two Sea Shepherd crewmembers aboard a Japanese whaling ship, strand them there, and then feed the story to the press in order to stage an international hostage situation. “If we can get people onboard, to be held hostage by the Japanese whalers, that

will force Australia, into, uh, a very difficult diplomatic position,” Watson explains with a mischievous smile.¹⁵¹

Watson’s proposal incites a backlash among the Sea Shepherd crew. After hearing the idea, the narrator announces that the Sea Shepherd crew “is in complete disbelief, [because] the Sea Shepherds have never attempted something this risky or this radical.”¹⁵² As one crewmember explains, “If you fall overboard while we are down there, then you are going to freeze to death before we can even turn the ship around!”¹⁵³ Several members also add voices of discontent and fear of arrest. “I don’t think it’s a strategy,” stresses one crewmember, “because a strategy actually means you’ve got plans in place.” Another crewmember expresses his concern with the plan and states that there “are a lot of variables in play, I don’t want to put myself [in danger]. . . [or] see anybody [else] get put in danger.” The camera cuts to another crewmember who apologetically adds, “It’s not that I’m not committed, but I’ve got all these hesitations.” The communication officer then adds his own critique of the plan, “If you board someone else’s ship . . . [then] you invade someone else’s country, [and] I don’t think that’s a smart idea.” Another crewmember states that, “we all realize there is an inherent risk in what we’re doing, but not unnecessary risks, [Watson is] risking people’s lives.” Another chimes in, “If Paul wants to be a hero, *he* should board the ship.” Finally, the medical officer succinctly summarizes their concerns:

It’s a foolish idea . . . it’s a dangerous idea. You’ve got to think about the personal safety of the people who would volunteer and I don’t think that’s been taken into account by Sea Shepherd at all. In my opinion they’d be just a couple sacrificial lambs.

Unsurprisingly, Watson is not receptive to the crew’s concerns.

Instead of addressing the understandable anxieties of the crew, Watson dismisses them and then strategically manipulates a crewmember into volunteering for the dangerous mission. “I don’t have much patience with people who are what I would refer to as cowards,” he asserts. As the crew becomes increasingly discontented with his strategy, Watson realizes that finding a volunteer is going to be difficult and he decides to manipulate one crewmember by the name of Potsy. Potsy had accidentally damaged the Sea Shepherd helicopter earlier in the premiere and Watson uses Potsy’s guilt over the mishap to force him into volunteering as penance. “Well, it’s sort of funny with Potsy, I sort of goaded him into it,” explains an unabashed Watson. “I said, ‘Potsy, you’re going to volunteer as punishment for damaging the helicopter.’”¹⁵⁴ Eventually, as Potsy wrestles to accept his new role, another crewmember, Giles, volunteers to help him and they prepare to embark on the publicity inducing protest strategy that could very well cost them their lives.

The next morning, after Sea Shepherd prepares to occupy the Japanese whaling ship, video footage is shown of Sea Shepherd crew bombarding the Japanese whaling ship with an array of stink bombs and slippery cellulose powder. Amid these distractions, a tiny Sea Shepherd zodiac sneaks up around the back of the ship and manages to get Giles and Potsy aboard. Immediately after news of their success reaches Watson, he commands the pestering Sea Shepherd boats to leave—stranding Giles and Potsy with a bunch of angry and confused Japanese whalers. With the crewmembers aboard, the staged hostage situation is a success and Watson is giddy with excitement.

Watson’s exuberance is quickly redirected towards publicizing the incident. He exclaims, “The longer we can keep them on that boat, the better the story [will] be!”¹⁵⁵ The cameras then cut to the ship’s First Mate, who jovially echoes Watson’s sentiment. “If we can keep the

incident in the newspapers, and on the news, maybe the Japanese government will decide it's time to pack it in!"¹⁵⁶ Watson yells urgently, "Did we get any good still photographs of them up there too? Because that's a picture that's going to go around the world—[so] get that picture!"¹⁵⁷ After the crew scrambles to make sure they've got a good photograph to release to the press, Watson carefully pours through them, selects a few of them to forward to various media outlets around the world. The show then centers upon one in particular that captures Potsy and Giles screaming in a state of panicked fear as a crew of flustered Japanese whalers drags them inside the hull. Subsequently, the narrator's voice cuts over film of Sea Shepherd's press scramble and explains, "Within hours of informing the press of the hostage situation, the story breaks worldwide." Clips from Australian, American, British, and Japanese news reporting on the situation are shown. By putting Giles and Potsy at risk, Watson's strategy and spin incites an international catastrophe and his version of it is swiftly circulating around the globe.¹⁵⁸

Interestingly, *Whale Wars* uses Sun Tzu's ancient book, the *Art of War*, to frame the dialogue around the entire hostage situation. This framing accentuates Watson's sense of individualism by glamorizing Watson and giving him full credit for the success of Potsy, Giles, and the other Sea Shepherd activists that actually risked their lives to make the strategy a success. Portraying Watson as a master protest tactician, the narrator explains, "Captain Watson's philosophies, inspired by the *Art of War*, come to life as thirty-four Sea Shepherds put their life on the line for what they believe."¹⁵⁹ As the incident progresses, *Whale Wars* features a calm Watson, safely inside the ship's hull, explaining why his strategies are working through memorized teachings on "force" from the *Art of War*. For instance, when the camera cuts to footage of Sea Shepherd crewmembers chasing and attacking the Japanese whaling boat, Watson

draws a quote from the *Art of War* to set up his impending acclaim for their triumph: “The leader who wins, makes careful plans,” he concludes.

Likewise, with success in the bag, a seemingly smug Watson takes full credit. “The Japanese did everything I thought they would do; they held them hostage.” He then gestures confidently, “I knew they would do *this*. And I anticipated *that*.”¹⁶⁰ Interestingly, Sun Tzu’s text not only offers Watson a chance to garner individualistic praise for the collective sacrifice of his crew, but upon further exploration, his *Art of War* influence also accentuates his individualistic persona. As translator Thomas Cleary explains, although the teachings of “force” in the *Art of War* deal largely with “the power of the group,” the West has embraced an understanding of “idiosyncratic individualism of the Samurai.”¹⁶¹ Likewise, Watson celebrates his victory by radioing the Japanese whaling ship and sarcastically taunting the Japanese whalers. “What happened to the ol’ Samurai spirit,” he yells into the microphone. In the aftermath of the situation, Potsy and Giles were detained by Japanese authorities for several weeks. They were purportedly tortured while aboard by being “dunked in icy water and tied to a radar mast.” However, Sea Shepherd conspicuously avoided connections with the two activists during their brief imprisonment, legal processing, and eventual quiet release to Australian authorities.¹⁶²

Risks like the aforementioned staged hostage situation are commonplace throughout the rest of the series; Watson receives full credit for successes and absolves himself from blame when incidents go too far. With his incidents regularly garnering ratings and press during the ensuing seasons, he devised even more dangerous tactics and would order small Sea Shepherd boats (rarely the ones he was on) to wreck into whaling vessels in the icy waters. These actions almost killed entire crews and led to the scuttling of three vessels—most notably the destruction of the *Ady Gil*, which was being captained by the loyal crewmember Peter Bethune. Bethune

would subsequently be a major player in yet another “hostage” incident, this one with more deplorable results.¹⁶³

In 2010, Watson cut ties with Bethune, one its most loyal members. The year before he had used Bethune to procure the speedy, multi-million dollar, world-record-holding ship the *Ady Gil*, named after the billionaire philanthropist who donated it. After Bethune obtained and registered the ship, Watson rewarded his efforts by naming him captain. In January 2010, the speedy Sea Shepherd ship located and began harassing the whaling ship *Shonan Maru*. With Watson’s boat 250 miles away at the time, and despite being less than a quarter of the size of the mighty *Shonan Maru*, the *Ady Gil* decided to block the whaling vessel’s pathway and was subsequently destroyed. Although the *Shonan Maru* was fine, one crewmember broke two ribs in the incident and the entire crew nearly died while waiting for a nearby vessel, the *Bob Barker*, to rescue them. Afterwards, Watson, who reportedly ordered the maneuver, also secretly had the ship scuttled at sea to create the impression that the Japanese whaling vessels were aggressively attacking Sea Shepherd’s ships.¹⁶⁴

Shortly after the *Ady Gil*’s destruction, Bethune was left without a ship to captain, so Watson had him board another a Japanese whaling vessel—recreating an incident that was strikingly similar to the guilt-induced hostage situation with Potsy and Giles. Although precedent had now been set for the risky maneuver, it was not without similar risks. However, the loyal Bethune embraced the danger, haphazardly snuck aboard the vessel in similar fashion, and was immediately detained. Yet, unlike Potsy and Giles, who were only detained for a matter of weeks, Bethune was brought to mainland Japan and faced a fifteen-year sentence for having arrows on him in order to shoot “nasty chemicals” into whale meat. Eventually, after spending five months in a Japanese prison, he received a 5-year suspended sentence.¹⁶⁵

Instead of supporting Bethune during his imprisonment, Watson, for fear of legal issues, had Sea Shepherd cut all ties with the loyal supporter during the trial process and even renounced his membership in the organization; this despite the fact that Watson himself orchestrated the venture and was reportedly fully aware of the contexts surrounding Bethune's boarding effort.¹⁶⁶ Sea Shepherd even released a public statement stating that Bethune would no longer "be formally associated with, or be a representative of the Sea Shepherd Conservation Society, because his methods are not in complete alignment with the organization."¹⁶⁷ Upon his release, an understandably disgruntled Bethune decried Watson as a "morally bankrupt" leader who has "lost the plot." Subsequently, Bethune has been locked up in a lengthy litigation battle with Sea Shepherd while suing them for damages.¹⁶⁸ Moreover, Bethune's actions also caused the billionaire donor of the ship's namesake, Ady Gil, to sue Watson under the premise that Watson staged the collision and scuttled the ship as "an opportunity to spin the incident into a major publicity and money maker."¹⁶⁹

Along with Giles, Potsy, and Bethune, few Sea Shepherd crewmembers have remained with Watson throughout the entirety of the series, let alone the life of the organization. "Many of Watson's colleagues from the seventies and eighties no longer work with him," explained Khatchadourian. "[T]hey have grown tired either of the campaigns or of Watson's style of leadership—'anarchy run by God,' a longtime volunteer called it."¹⁷⁰ One former Sea Shepherd member, who was a longtime friend of Watson's, even pointed out that Watson is not even a captain. Watson "loves to dress up in uniform, as 'Captain Paul Watson,' and suddenly there's enough gold braid on his shoulders to skipper the Queen Mary," observed David Sellers.¹⁷¹ Ultimately, speaking to Watson's alienating individualism, Nancy DeWolf Smith concludes, "The only thing certain is that if Animal Planet ever comes to regret its association with him—

which should be inevitable—it will be accused, as are Greenpeace and all others who have run afoul of Mr. Watson, of ‘fraud’ and/or of being in the pay of the (name your country) whaling industry.”¹⁷²

Throughout the *Whale Wars* series, the abjuration of Sea Shepherd’s collective supporters becomes increasingly pronounced. Eco-driven narratives of Watson’s entrepreneurial individualism articulate a staunch divide between the prominent captain of environmental protest and his displaced activists. Indeed, the stories of Giles, Potsy, Bethune, and even the billionaire Ady Gil, stand among a multitude of now-former activist supporters who paid the price for Watson’s rise to activist celebrity stardom. Eventually, when Watson’s numerous legal issues forced him to start to step aside, a new crewmember arose, in Watson’s likeness, in order to sustain the viewership that fed, and continues to feed, Watson’s movement.

A New Star is Born

Watson’s decision to incorporate Discovery as a protest partner accelerated his ascent to activist stardom. However, Discovery was quick to raise up a new activist star when legal issues prevented Watson from fully engaging in Sea Shepherd’s 2013 campaign. Watson and *Whale Wars* were taken out of action when a myriad of legal issues relegated both Paul Watson and Animal Planet’s camera crew to the sidelines of their yearly campaign against the Japanese whaling industry. As Khatchadourian explains in his 2013 follow-up interview with Watson, “Mired in litigation, diplomatic pressure, I.R.S. audits, and Interpol notices, Animal Planet decided that, instead of placing its own crew on Sea Shepherd ships, it would stitch together episodes from footage that the activists shot of themselves.”¹⁷³ These legal issues not only kept Watson from embarking on their 2013 campaign, but also forced him to step down as the CEO of the American division of Sea Shepherd. Yet, amidst widespread speculation that Watson’s

limitations would end *Whale Wars*' tenure, another season emerged with a new tale of individualistic success. In order to accomplish this feat, Sea Shepherd hired its own camera crew, filmed a very successful campaign against the Japanese whaling industry, and developed another season in the form of a two-hour Animal Planet special. Titled *A New Commander Rises*, the show both featured Watson's struggle to remain on the sidelines and *Whale Wars*' hunt for a new activist star, preferably with the same charismatic personality as *Sea Shepherd's* former captain.

Without Paul Watson leading this Sea Shepherd campaign, the *Whale Wars* special started with a narrative of Watson as a tormented leader who was passing the proverbial baton to the three potential Sea Shepherd captains of the respective *Brigitte Bardot*, *Sam Simon*, and *Bob Barker* ships. Building on Watson's past, and once again referring to his tempestuous relationship with Greenpeace, the show sought to anoint a new star amongst the Sea Shepherd collective. Yet, all but one of the upstart captains fell short. Due to engine troubles, the captain of the *Brigitte Bardot* returned back to Australia as a precautionary measure. After a significantly larger Japanese fueling ship collided with the *Sam Simon*, the second captain, Luis Manuel Pinho, moved the *Sam Simon* out of harm's way—saving the crew's lives and preventing an environmental catastrophe.¹⁷⁴ Despite Pinho's valor, the maneuver incurred the wrath of Watson who shunned Pinho and insisted, "The crew of the *Sam Simon* shouldn't have said they were willing to risk their life if they didn't mean it!"¹⁷⁵ Subsequently, with the failure of the other two captains, it became apparent that it would be a protégé of Watson's who would rise to the occasion and become the new star of *Whale Wars*.

New captain Peter Hammarstedt was one of the few Sea Shepherd crewmembers to remain on *Whale Wars* (or with the organization) throughout the entire series. Accordingly, the *Whale Wars* special drew heavily on his relationship with Paul Watson in order to create this

burgeoning activist celebrity—replacing Watson’s individualistic persona with another one. “I know that it’s not going to be easy,” proclaimed Hammarstedt, “[but] the ultimate responsibility of shutting down whaling operations down in Antarctica rests on my shoulders.”¹⁷⁶ He was right, and when his crew initially struggled to stop the Japanese whaling ships from reeling in their catch, he took full responsibility for their collective failure.

Hammarstedt was eventually given a second chance. Yet, unlike Watson, he was seemingly quite hesitant to risk the lives of his crew. “Before we left on campaign,” explained Hammarstedt, “I promised each one of my crewmembers that I’d bring them all back home safely.”¹⁷⁷ However, under pressure by Watson, Hammarstedt broke that promise. Instead he dangerously pulled alongside the Japanese fuel liner and refused to let any other whaling boats refuel.¹⁷⁸ In the process, Hammarstedt’s boat collided with the massive Japanese vessel, and his ship nearly capsized. His fearful and panicked crew sent out an international mayday alert—but Hammarstedt refused to back down. Luckily for the crew, the Japanese fuel liner acquiesced in fear of creating another international incident. Seemingly forgetting his promise to keep his crew safe, Hammarstedt reflected upon the situation: “I always told Paul that I wouldn’t back down and to be able to live up to that feels good. It feels good not to let him down.” He then added, “I’ve worked with Paul for so many years, I knew that if Paul had been in my position he would stay—and I stayed because Paul would have stayed.”¹⁷⁹ By risking the lives of the crew, Hammarstedt succeeded where Pinho failed. And, more importantly, Hammarstedt expressed a willingness to expend the lives of Sea Shepherd’s activist supporters—a move that was subsequently rewarded since it created enough drama for another season of *Whale Wars*. A new commander rose indeed, in the vein of Watson, with Hammarstedt’s token narrative individualistic activist success leading the way.

The emergence of Hammarstedt could be perceived as a potential negation of Watson's individualistic celebrity activist persona. However, while Watson's legal issues relegated him to the sidelines, Watson still commanded the lion's share of the spotlight. In fact, this special—*A New Commander Rises*—featured the old commander, Watson, throughout the majority of the episode. Additionally, when Hammarstedt's leadership received screen time, his actions bore a striking resemblance to Watson's cutthroat individualism as he went back on his word and risked the lives of his crew. Thus, it was only by embracing Watson's individualistic persona that the new commander arose. Moreover, at the end of the special it was Watson who was lavished with praise for Sea Shepherd's collective success. Befitting of his individualistic narrative, a *Whale Wars* montage celebrating the crewmembers success in their sixth season, with no guarantee of renewal at the time, framed their and Hammarstedt's collective achievements through a remarkable sense of adulation for Watson. As one tearful crewmember said, "This is a lifetime of work—a lifetime of work for Paul." Another added, "This is definitely the crown of Paul's work" and exemplifies what "the determination of one person" can do.¹⁸⁰ Likewise, when Khatchadourian followed up with Watson in an interview before the airing of the *Whale Wars*' special, Watson did not shy away from the accolades. When asked about the number of successful campaigns he had now accomplished due to *Whale Wars*, Watson's response was to simply boast that he has now led more expeditions to the Antarctic than "Scott, Amundsen, and Shackleton put together."¹⁸¹ Thus, even when legal issues relegated Watson to the sidelines, his brand of activist celebrity individualism waged onwards—in an environmental movement that endures at the expense of its supporting activists.

Conclusion

Building off examples of the twentieth-century's foremost black, student, and women's social movements, Richard Gregg contentiously argued for an *ego-function* in protest rhetoric and succinctly stated, "The primary appeal to the rhetoric of protest is to the protesters themselves." Gregg was convinced that this ego-function of protest rhetoric had always offered groups a way to rhetorically establish a collective identity while pushing for social change.¹⁸² However, as Watson has evidenced, there has been a turn in twenty-first century protest and the once communal notion of collective identity in protest has been pushed by the wayside in order to facilitate protests that are driven by a dynamic relationship between individual activist celebrities and those who passively consume a movement rather than actively engage within the protest. With some, such as Bono's [RED] campaign and Mycoskie's TOMS shoes, the passive consumption of a physical product as a way to support protest is overt. With others, such as Hall's alliance with Apple, the lines between the overt consumption of a product and consumptive entertainment are blurred; one can purchase an iPad like Hall's or simply watch and/or share Apple's short film about his activism. In Watson's case, those passive consumers are the droves of *Whale Wars* viewers who facilitate Sea Shepherd's political successes.

Ultimately, Watson's version of social protest offers a stark contrast to the grassroots protest and collective action of the notable leaders of twentieth-century movements. In James Darsey's *Prophetic Tradition and Radical Rhetoric in America*, he argues that radical public discourse has historically been conveyed through prophet-like leaders who placed a particular emphasis on shared discourse and community action.¹⁸³ For instance, as Jodi Melamed articulates, Du Bois adamantly stood against individualistic narratives of "black success" and believed that these narratives legitimized a historical collusion between U.S.-lead transnational

capitalism and racism¹⁸⁴—such a sentiment was particularly echoed by Malcolm X’s iconic Civil Rights quote, “You can’t have capitalism without racism.”¹⁸⁵ Moreover, as Lester Olsen points out, Audre Lorde warned that, “nothing neutralizes creativity quicker than tokenism, that false sense of security fed by a myth of *individual* solutions.”¹⁸⁶

Therefore, this investigation into Paul Watson’s activist celebrity ascent allows us to see one way in which, under the conditions of neoliberal capitalism, an activist becomes the face of a movement and simultaneously displaces their cause’s collective community in the process. Watson’s entrepreneurial success came when he broke from the grassroots efforts of Greenpeace, started an activist organization, initiated a television show, and strategically designed protests to garner the ratings that made him the preeminent face of environmental activism. While Watson’s decision to ally with Discovery and create *Whale Wars* made him a public icon for environmental activism, Watson’s protest strategies regularly placed the lives of his Sea Shepherd activists on the line. Similarly, even the less extreme activist celebrities of the twenty-first century—such as the aforementioned Bono, Mycoskie, and Hall—are heralded for both their business acumen and their individual achievements, but the collective help of their grassroots supporters falls by the wayside. Indeed, the topos of neoliberal individualism puts a particular emphasis on a type of individualistic and entrepreneurial success that is useful for protest publicity and celebrity stardom, but antithetical to the collective support that defined social movements in the past. Although Hammarstedt was able to use Watson’s celebrity presence and leadership for personal gain within the movement, others, like Potsy, Giles, and Bethune, can only find solace in the fact that they stand among a multitude of collaborators who have been disaffected by Watson’s life-long construction of an at-all-costs persona of rugged individualism.

In Khatchadourian's initial exposé on Sea Shepherd, he suggested that Watson's line of thinking functioned much like an anti-capitalist "Marxist dialectic" that privileges an "egalitarian and just" worldview. For Khatchadourian, this worldview represented "every species' interests" equally; rather than a "violent" and "unstable" capitalist worldview that is "fixated on the interests of one species."¹⁸⁷ Conversely, I have suggested through an overview of protest movement ideology and analysis of *Whale Wars* rhetoric that Watson's neoliberal activist individualized persona runs in opposition to the notions of collective egalitarianism that have been so crucial to the protests of the twentieth century: Watson is willing to literally trade the lives of his Sea Shepherd collaborators for the spotlight. Likewise, while his acumen for stardom led to striking political efficaciousness, his narrative illuminates a neoliberal cutthroat version of activist success that fetishizes individualistic publicity at the expense of communal activism. Therefore, Watson's personified embrace of neoliberal individualism reflects a type of protest protagonist that is antithetical to the communal activists of the twentieth century—which makes him rather un-Marxist, to say the least.

The next chapter moves beyond notions of neoliberal individualism and offers an example of how benevolent capitalist solutions to issues of social protest can showcase a staunchly racist rhetoric.

Chapter 3

Neoliberal Racialization and the Protest Propaganda of Sea Shepherd

We must especially beware of propaganda and distortion as to the present economic conditions and changes in the world.

—W. E. B. Du Bois¹⁸⁸

The successor to politics will be propaganda. Propaganda, not in the sense of a message or ideology, but as the impact of the whole technology of the times.

—Marshall McLuhan¹⁸⁹

Consumer trends are creating new avenues for resistance in neoliberal capitalism. A regular Saturday morning for a regular person could easily involve brewing a cup of Starbucks' fair-trade certified Italian roast coffee, playing U2's *Songs of Innocence* album while getting ready, pulling a (RED) branded t-shirt over one's head, and putting on a pair of TOMS shoes before walking out the door. The coffee, album, and clothes are all purchased products that actively play a role in transnational issues of social justice: Fair-trade commodities seek to provide an ethically "fair" price to the farmers who make the products; TOMS is a for-profit company that uses their resources to provide shoes to globally impoverished children; and both the t-shirt and the music album are produced with the help of Bono's (RED) campaign, which funds humanitarian efforts with AIDS populations on the African continent.¹⁹⁰ Yet, as consumer trends create new avenues for public resistance on a global stage, their rhetorics can also carry racialized dimensions.

Racial ties are readily made apparent as transnational corporate powers join forces with global issues of social justice. Each of the aforementioned social justice commodities, for instance, stand as an example of how corporatized resistance seeks to assist globally

impoverished people of color: As Jeffrey Bennett explains, AIDS is a pandemic that is rhetorically relegated to the African continent.¹⁹¹ Likewise, the (RED) campaign positions AIDS as an African problem that can be solved by capitalism in the global west.¹⁹² Fair-trade certified products offer economic fair-mindedness to farmers throughout the world, notably Central America, South America, and South East Asia. And, the for-profit TOMS shoes got its start by helping “barefoot” children in South America. While assistance with widespread issues of disease, disparity, and human rights can be understood as altruistic acts, in a neoliberal era of social protest, there are of course pitfalls when global assistance regularly carries racialized attachments.

Sea Shepherd’s racialization enacts a sense of privilege that is made especially available through the corporatized production of *Whale Wars*. Likewise, this chapter interrogates the product of a partnership between eco-justice conservationists and a corporate conglomerate in order to illustrate a rather extreme version of what Jodi Melamed terms *neoliberal racialization*. In her explanation of neoliberal racialization, Melamed explains that, alongside the emergence of neoliberal capitalism, racialized discourses have become recoded and circulated as discourses about cultural issues that can ultimately be fixed with economic solutions.¹⁹³ In order to explain how neoliberal racialization is deployed in the pursuit of neoliberal resistance, this chapter turns to the critically acclaimed docudrama *Whale Wars* and explains how their highly publicized protests (re)deploy a twenty-first century version of anti-Japanese WWII propaganda.

Specifically, this chapter argues that *Whale Wars*’ deployment of propagandized protests offers a striking example of how the amalgamation of benevolent capitalist solutions to issues of social protest can be articulated with a staunchly racist rhetoric. In order to do so, this chapter first offers a historical and theoretical context for understanding anti-Japanese WWII propaganda

and neoliberal racialization. Second, this chapter gives a background for understanding the Japanese whaling industry and the current state of whaling in Japan. Third, this chapter describes Sea Shepherd's denial of racism. Fourth, through an analysis of *Whale Wars*, this chapter positions Sea Shepherd's cultural attacks as a form of propagandized racism, which offers an underlying economic directive in the process of transposing issues of race into issues of culture. Finally, this chapter concludes by discussing the ramifications of racialization on neoliberal protest.

Propaganda and Neoliberal Racialization

The political influence of propaganda has been a prevalent topic of academic inquiry since the critical theorists of the Frankfurt School. As Michael Schudson explains, since the Frankfurt School coined the term “the culture industry” in the early part of the twentieth century, a bevy of scholarship emerged in order to explore “the siren song of Mass Media and any demagogue who could control mass communication.”¹⁹⁴ In the United States, propaganda strategies were born in World War I and were made especially salient during World War II.¹⁹⁵ Kenneth Burke, for instance, forewarned of the emergence of Nazi propaganda in his iconic essay titled “The Rhetoric of Hitler's Battle.” In this essay he contended that (through the deployment of anti-Semitic themes of “exclusion” and “blame”) the “substance of Nazi propaganda” would inevitably lead to Hitler's rise to power.¹⁹⁶ Burke's prognosis was quite accurate, as Nazi propaganda facilitated the emergence of the Axis Powers of World War II. Consequently, the United States countered these propaganda strategies with the deployment of their own stateside form of propaganda, which specifically targeted both the Germans and Japanese.¹⁹⁷

According to Clayton Koppes and Gregory Black, it was the state-sanctioned Office of War Information (OWI) who spearheaded both anti-German and anti-Japanese propaganda campaigns. In order to avoid accusations of racism, the OWI's official stance on propaganda carried a directive to attack the fascist state and not the citizens of that government. As such, they pushed filmmakers to "avoid hate pictures and use the screen to explain the nature of the enemy." These efforts were quite successful in getting a number of film producers to humanize German citizens while simultaneously critiquing the Nazi regime of the German state.¹⁹⁸ Yet, while American film and media readily separated the German people from German polity, this was not the case with Japan.

Throughout the 1940s, primarily via news and film media, America's public embrace of anti-Japanese propaganda was truly robust. As Koppes and Black explain, "in a country still steeped in racist stereotypes, and dogged by a history of virulent anti-Japanese prejudice, the temptation to cast the Japanese in racial terms was overwhelming."¹⁹⁹ Indeed, the Roosevelt administration's internment of Japanese-Americans did nothing but accentuate and justify the pervasive presence of a racialized anti-Japanese public sentiment.²⁰⁰ Collier's commemoration of the first anniversary of the Pearl Harbor bombing featured a cover that portrayed a Japanese individual as a bloody vampire bat ready to bomb America. Likewise, TIME magazine sought to address a very real public concern with their now infamous article, "How to Tell Your Friend's from the Japs." While reflecting on dehumanizing anti-Japanese sentiments, Pulitzer Prize winning WWII correspondent Ernie Pyle remarked: "[T]he Japanese were looked on as something subhuman or repulsive, the way some people feel about cockroaches or mice."²⁰¹ And, perhaps no statement echoed the sentiments of a bigoted American public more than

Admiral William Halsey's abominable proclamation that "the only good Jap is a Jap that has been dead for six months."²⁰²

Alongside this racialized public sentiment came a number of films sanctioned by the OWI. Initially the OWI recognized America's overwhelming penchant for anti-Japanese prejudice and tried to soften the racialized components of WWII propaganda by focusing on the actions of the state and not on its people. However, as Koppes and Black explain, "the popular conception of the Japanese as inhuman beasts was too ingrained to counter, and too convenient a propaganda tool to abandon."²⁰³ Thus, with a prejudiced public in full force, a plethora of films were released that explicitly dehumanized the Japanese as violent and amoral savages. By framing the Japanese as savages, these propaganda films began to rely upon a dehumanizing rhetoric that referred to the Japanese as "beasts, yellow monkeys, nips, or slant-eyed rats."²⁰⁴ In the movie *Objective Burma*, for instance, the Japanese were singled out as "almost uniquely savage" and "perfectly comfortable in the jungle."²⁰⁵ In *A Prisoner of Japan*, the Japanese were portrayed as savages who "killed for no apparent reason, other than to satisfy their bloodlust." In *Guadalcanal Diary*, the amoral nature of savagery became apparent as "every Japanese move was portrayed as deceitful."²⁰⁶ The movie *Purple Heart* was so inhumane in its depiction of the Japanese as violent savages that one critic responded to this representation of seemingly "endless . . . Japanese brutality" by saying that the film was designed to simply "narrow and solidify hatred of a group of people into hatred of a whole people."²⁰⁷ Furthermore, the horror of the movie *Purple Heart* was so great that the OWI collected audience responses: "Whoever [sic] has seen this film of torture of men by apes dressed as generals and admirals with decoration down to their knees," replied one respondent, "needs for psychological release a film showing these brave [American] aviators throwing heavy caliber bombs on the capital of these inhuman

creatures.”²⁰⁸ The aforementioned examples only represent a sample of the sizable number of propaganda films that depicted the Japanese as amoral and subhuman savages capable of barbaric violence.²⁰⁹

Amidst the highly racialized sentiments of anti-Japanese WWII propaganda, perhaps it should come as no surprise that racialization in an era marked by neoliberal capitalism can be traced back to WWII. As Jodi Melamed explains, contemporary American rhetorics of neoliberal racialization are indebted to a post-WWII public sentiment that argued for racial equality “as a means to secure U.S. interests,” but not as “an end in itself.”²¹⁰ As the cultural discourses of U.S. neoliberal capitalism displaced “older biological conceptions of race,” they detached from the history of racial conflict but still remained associated with ideas of “representation” and “fairness.”²¹¹ Moving into the 1960s, amidst the Vietnam war, Nikhil Pal Singh asserts that “U.S. capitalism . . . began to reconstitute the very logic of an antagonistic, racialized world that was supposedly being dismantled.” The “technology of race” became something “more than skin color or biological essence,” he explains. Instead, racialization became understood through “cultural, spatial and signifying systems” that stigmatized “one form of humanity for the purposes of another’s health, development safety, profit or pleasure.”²¹² In this manner, publics stopped talking about race in phenotypical terms and instead began to reframe racialization in terms of culture.

Amidst the post-WWII rise of neoliberal capitalism, racialized rhetorics were disavowed, but the categories of racial segregation were kept forever apparent by putting an emphasis on capitalism as a “benevolent” solution for the procurement of global multiculturalism. As an example of the transposition of racialized rhetorics with capitalist solutions, Melamed offers a discursive reading of the Bush administration’s *National Security Strategy*. She explains that the

National Security Strategy incorporated a “rhetoric of civil rights” in order to portray “economic rights” as “the most fundamental civil right.” Moreover, she adds, the neoliberal operatives of “deregulation, privatization, and regulated ‘free markets’” stood as the “only” way to guarantee economic rights.²¹³ In this manner, one can understand the emergence of neoliberal racialization as a way to eliminate race as an issue, reframe racialized rhetorics as a way to discuss cultural deficiencies, and offer economic solutions to these perceived cultural deficiencies.

While Melamed and Singh lean on examples of neoliberal racialization through both the state and private sectors, as Sea Shepherd illustrates, acts of public protest, especially when seeking massive amounts of publicity, are not above creating racialized discourses that enjoin cultural attacks and economic solutions. Throughout *Whale Wars*, I contend, this racialization is apparent as they overtly redeploy the anti-Japanese sentiments of WWII propaganda. Scholar and columnist Dougal McNeil, for one, lambasted Sea Shepherd for their racialized rhetoric:

The echoes are so obvious, the dehumanizing provocation so blatant, the ‘murdering barbarian butchers’ of today are the ‘Japs’ of 60 years ago, the ‘Nips’ of racist attacks and outrages of the recent past, the ‘foreigners’ hated by racists in settler colonies founded on dispossession and dislocation and determined to forget their own foreignness.²¹⁴

Indeed, the racialized rhetoric of Sea Shepherd is not slight. Very much like Melamed’s conception of neoliberal racialization, Sea Shepherd’s rhetoric simultaneously disavows racist sentiments while articulating a propagandized discourse that offers up economic solutions to their perception of Japan’s cultural deficiencies.

The Japanese Whaling Industry

The Japanese whaling industry is primarily guided by scientific research initiatives that allow for commercial whaling to operate on internationally legal grounds—albeit, their assertion that the whaling industry is driven by scientific research is highly contestable. In a nutshell, despite an international moratorium on whaling that has been in place since the 1980s, the Japanese whaling industry is made possible by a loophole that allows for whaling that is done for research purposes.²¹⁵ While this practice is in accordance with the parameters of the moratorium, it also fuels a gust of global controversy.²¹⁶ As the *Whale Wars* narrator explains in the series premiere (and in numerous episodes throughout the rest of the series), “Many legal experts agree that what the Japanese are doing is legal, but others say they are taking advantage of the law for their own profit.” In this manner, whales are “surveyed” by researchers through lethal means, but under quota restrictions put in place by the Japanese state. After the whales are surveyed, the whale remains must be then sold in order to avoid wasting the carcass, because “the law states that no whales killed for scientific research can go to waste.” “As a result,” the narrator adds, “in Japan, whale meat is legally sold on the open market.”²¹⁷

The industrial whaling marketplace operates through a syndicate of state and private corporate interests in order to sell the whale remains. The whaling industry in Japan is a joint venture between Japanese bureaucrats and private interests through a complex “family” of organizations, which is primarily comprised of three associations: The Japanese Institute of Cetacean Research (ICR); The Fisheries Agency of the Ministry of Agriculture, Forestry, and Fisheries (a.k.a. the Ministry of Fisheries); and, Kyodo Senpaku Kaisha Co., Ltd. (Kyodo Senpaku).²¹⁸ The ICR is the face of Japanese whaling and works hand-in-hand with the Ministry of Fisheries to regulate whaling research and the subsequent byproduct distribution.²¹⁹

The ICR describes itself as “a non-profit research organization” that is authorized by the Ministry of Fisheries and whose purpose is “to carry out experiences, research and surveys on cetaceans and other marine mammals.”²²⁰ In conjunction with the global moratorium against commercial whaling, the ICR also works closely with the International Whaling Commission (IWC) to obtain and carry out the contentious “special permits” that the Japanese government allows for the purposes of lethal whale research.²²¹ These special permits are a point of much global contention. The primary reason for this contention is that since Japan first started issuing the permits for whaling quotas in 1987 the permits have increased by nearly 500%. This dramatic increase means that when compared to the other countries who also abide by the global moratorium by using special permits for research whaling—namely, Iceland, Norway, and South Korea—Japan, led by the ICR, kills more than ten-times the whales than these other countries combined.²²² The ICR justifies their immense whaling quota because they “must catch a large number of whales to ensure a statistically significant research population.”²²³

Despite the fact that the ICR justifies its research by both pointing to a substantial number of published peer-reviewed articles and bringing to light the fact that the more-neutral IWC regularly relies on its findings, the ICR is not exactly the objective research organization that it projects itself to be. Thus, while the ICR may not be as dubious as some anti-environmentalist research organizations, such as the United State’s Heartland Institute,²²⁴ the ICR is also not the “politically neutral” research organization that its namesake suggests. For instance, as Jun Morikawa, author of *Whaling In Japan*, explains, “the procedure for initiating researching whaling involves the Fisheries Agency . . . asking the Institute of Cetacean Research to undertake the research whaling practices on its behalf.”²²⁵ Additionally, the ICR is not merely a research company with strong political ties, but it also campaigns on the behalf of the whaling

industry.²²⁶ This is important to consider, because the revenue from research whaling helps provide “financial support for a wide range of ICR activities.”²²⁷

Understandably, as the face of a less-than-scrupulous Japanese whaling industry, the ICR and the Japanese government have been the focus of international protests, primarily from environmental justice groups like Sea Shepherd. Thus, it is the ICR who stands as the organizational force of opposition to Sea Shepherd’s protests. In the season-six special, for instance, *Whale Wars* offered a synopsis of Sea Shepherd’s recent accomplishments. As the narrator explains,

The Institute of Cetacean Research released an official statement stating quote:
“Today, after careful consideration to the situation in the Antarctic . . . the Minister of Agriculture, Forestry, and Fisheries of Japan announced withdrawal of the research activities . . . for this season in order to avoid any injury or threat to life of the crew members and property of the fleet caused by the continued illegal attacks and sabotage by Sea Shepherd conservation society.”²²⁸

Although another season would not have been necessary had the ICR not resumed whaling the next season, in response to this announcement, the camera cut to a number of crewmembers that excitedly discussed their pleasure with the fact that “the Japanese government has officially called off the hunt.” As one crewmember remarked,

Japanese officials, to make the kind of statement that they’re making, about how they left Antarctica because of Sea Shepherds harassment, it doesn’t get better than that! That’s straight out of the horse’s mouth. They’re admitting defeat [and] they’re admitting it was because of Sea Shepherd’s presence in Antarctica that they fled and ran.²²⁹

In this manner, the ICR officially takes on the brunt force of Sea Shepherd's protests, even if these protests ultimately extend past the ICR and into highly racialized anti-Japanese sentiments.

Interestingly, the Japanese whaling industry does not make a significant contribution to the Japanese economy and it has only minor fixtures in nationalistic traditions. As Morikawa explains,

For Japan . . . the continuation of whaling is neither a major economic issue nor a matter of vital national importance. But amazingly, somehow the Japanese government has allowed the issue to take on a magnitude and significance far beyond its actual importance and, in the process, has made the continuation of whaling a national goal and a matter of national pride.²³⁰

In this manner, as the Japanese government has adamantly championed whaling practices as integral to cultural identity, the arguments for whaling as a part of Japanese cultural identity ignore a multitude of factors that suggest otherwise, most notably, a wane in Japanese public support for both whale consumption and whaling writ large.²³¹ Despite this wane in public support, Sea Shepherd is quick to refute their racialization and articulate an economic directive for their protests.

Refuting Racism

Although Sea Shepherd vehemently denies accusations of racialized propaganda, Sea Shepherd captain and CEO Paul Watson has not shied away from accusations of propagandized media manipulation. According to Libby Lester, Watson is rather open about the fact that he manipulates the media and regularly capitalizes off of propaganda strategies to increase Sea Shepherd's public presence.²³² "People say I manipulate the media . . . Well, duh, we live in a media culture so why on earth wouldn't I?" boasts Watson. "What we do is provide the media

with the kind of stories they can't resist, even if they really try, and this is how we bring attention to what's happening to the whales, the seals, the sharks and the other marine conservation campaigns we're involved in.”²³³

Despite a penchant to manipulate media with alacrity, Watson has been quick to refute the racialized dimensions of Sea Shepherd's propaganda inducing rhetoric. In 2010, when scholar and columnist Dr. Dougal McNeill published an article in *The Japan Times*, which ultimately accused Sea Shepherd of deploying a version of racialized anti-Japanese WWII propaganda, Watson responded with an article-length rebuttal, titled “Refuting the Racist Rhetoric of Sea Shepherd.”²³⁴ Although McNeill supported the environmentalist nature of Sea Shepherd's anti-Whaling efforts, he drew attention to “a worrying undercurrent of anti-Asian racism that permeates Sea Shepherd's publicity and arguments.” By pointing to Sea Shepherd's overwhelming emphasis on *Japan* and *the Japanese*, McNeill resolved that Sea Shepherd's rhetoric posited “an anxiously insistent racializing of a campaign that, officially at least, presents itself as being about environmental issues only.”²³⁵

Although Paul Watson rarely responds to critics directly, McNeill's biting criticism provoked Watson to defend Sea Shepherd with a lengthy public response.²³⁶ “Normally I ignore the criticism directed at Sea Shepherd, especially academic criticisms,” explained Watson, “but this article written by Dougal McNeill was published in the *Japan Times* not some random and irrelevant social forum site.” Indeed, McNeill's accusations of Sea Shepherd's racialized propaganda clearly struck a nerve with Watson, which was particularly evidenced by one of his concluding remarks, asserting that he hoped McNeill got “paid . . . well to write this drivel.”²³⁷

As Watson addressed McNeill's article in detail he denied accusations of racism and conversely accused McNeill of writing this article as his own “propaganda piece” for the

Japanese to use against Sea Shepherd. McNeill's article, contended Watson, was designed to discredit the noble efforts of Sea Shepherd while invoking "sympathy for a savage, cruel, and antiquated unlawful slaughter of whales." Moreover, Watson asserted that McNeill's attempt to "to equate World War II allied propaganda with Sea Shepherd's statements against whaling" was simply wrong. "There is no connection," he asserted, "Sea Shepherd is anti-whaling and not anti-Japanese." Thus, for Watson, Sea Shepherd was not "dehumanizing the whalers," but instead the Japanese whalers were "dehumanizing themselves by engaging in a brutal, bloody, and illegal slaughter of these intelligent beings."²³⁸ However, despite Watson's vehement denial of racism, a closer look at *Whale Wars* and Sea Shepherd's surrounding discourse illustrates how McNeill's allegations were in fact rather accurate.

Despite Watson's denial of racism, the connections between Sea Shepherd and anti-Japanese WWII propaganda are made readily apparent through the themes of savagery that once depicted the Japanese. Therefore, by building off of McNeill's claims, an investigation into *Whale Wars* and its surrounding discourses illustrates how the show appropriates anti-Japanese WWII propaganda. In this manner, similar to timeworn anti-Japanese WWII propaganda, Sea Shepherd polemically depicts the Japanese as amoral and subhuman savages who are brutally violent and treacherous. In doing so, *Whale Wars* uses the wilderness as a setting for which to racialize the Japanese soldiers—rather, in this case, the Japanese whalers.

Sea Shepherd, the Redeployment of WWII Anti-Japanese Propaganda, and Neoliberal Racialization

Taking its namesake quite literally, *Whale Wars* offers a platform for Sea Shepherd to articulate an enemy (the Japanese whaling industry) with a keen focus on the economic implications of their protest. Yet, as Sea Shepherd uses *Whale Wars* as a platform for their

protests against the Japanese whaling industry, their attacks against the industry are readily extended to Japanese culture writ large. In this manner, despite their contrariwise contentions, Sea Shepherd's protests take on a racialized dimension that is eerily reminiscent of anti-Japanese WWII propaganda.

The economic implications of Sea Shepherd's protests are cast to the forefront of *Whale Wars*. Sea Shepherd contests that their protests are primarily directed against the Japanese whaling for economic reasons. Throughout Sea Shepherd's protests the activists repeatedly claim that whaling is "big business" in Japan.²³⁹ "Our objective is purely an economic one," explains Watson in an interview. "We speak the language that [the Japanese] understand: profit and loss . . . and we'll put them out of business."²⁴⁰ Similarly, on Animal Planet's website, Watson asserts that Sea Shepherd's "most important objective" is to "hurt the Japanese whaling industry as significantly as we possibly can." Again referring to the baseline economics of profit and loss, he emphasizes his ethically neoliberal bent: "[T]he one language that they understand is profit and loss. We have to make sure that their losses continue to exceed their profits."²⁴¹ While Watson foregrounds—and justifies—their protests via economically driven ethical standards, in the midst of trying to hinder the profits of the Japanese whaling industry, *Whale Wars* also propagates a racialized rhetoric that induces elicited themes of anti-Japanese WWII propaganda.

In line with anti-Japanese WWII propaganda films' penchant for using the jungle as a setting to depict savagery, *Whale Wars*' depiction of savagery facilitates a polemic rhetoric that is set within the Antarctic wilderness. As Koppes and Black explain, propaganda films in the Western tradition identify the "wilderness with the absence of civilization . . . as a place of evil, where the norms of civilization give way to savagery."²⁴² In this manner, the WWII propaganda films that once utilized the jungle as a setting to depict Japanese savagery give way to *Whale*

Wars' contemporary use of the Antarctic wilderness as an aesthetic backdrop for its own racialization.

The setting for the Antarctic wilderness is initially established through *Whale Wars*' aesthetic framing of a pristine Antarctic territory. Likewise, this wilderness, where whales are also portrayed as key to the continued sustenance of humanity, is in dire need of Sea Shepherd's protection. Indeed, the hunting of whales—and, according to Sea Shepherd, their potential extinction—is symbolic of, and extended to, the violent destruction of humanity. “The reality is this, if the life of the ocean dies, we die, [and] civilization ceases to exist,” argues Watson.²⁴³ And, according to *Whale Wars*, it is up to Sea Shepherd to protect not only the whales and the Antarctic territory, but also all of humanity from the savage Japanese.

Paving the way for the rest of the series, at the start of *Whale Wars*' first episode, the cinematography cuts to breathtaking panoramas of a pristine but dangerous Antarctic space and the viewers are repeatedly reminded that this is indeed a “sanctuary.” Amidst beautiful video of glaciers and wild life, Paul Watson glowingly describes the area. “Antarctica is probably the most beautiful place on earth. Icebergs of incredible shapes and colors . . . It's just absolutely amazing wildlife, [with its] whales, penguins, leopard seals . . . it's the last untouched wilderness on the planet.”²⁴⁴ Watson and the Sea Shepherd crew then extend the beauty of the sacred Antarctic to its greatest inhabitants—whales. Intelligence is “measured by the ability to live in harmony with the natural world,” and by that criterion “whales are far more intelligent than we are,” he explains.²⁴⁵ While describing a deep and transcendent “connection” with the mammals, another crewmember makes another remark in regards to their intelligence by pointing out that size of their brains are even “bigger than a car.”²⁴⁶

Amidst this connection with the whales there is also an expressed obligation to protect them, and Sea Shepherd is seemingly the last line of defense for the inhabitants of this sacred territory. “You see that whale and there is a connection, and you feel a sense of obligation to do something,” states a teary-eyed Quartermaster Kim McCoy as she leads an orientation session. Subsequently she adds, “The fact is that right now while we are sitting here, whales are being killed, and we are the only people in the world . . . who are willing to go and do something about this.”²⁴⁷

With requisite protection of an aesthetically sacred Antarctic and its inhabitants established, *Whale Wars* explains that the Antarctic is not just beautiful, but it also can be a naturally dangerous wilderness. Accordingly, the show repeatedly explains the dangers involved in such a journey. The premiere, for instance, shows numerous images of seasickness within the crew as the narrator describes “a brutal section of ocean with 40 foot swells and deadly storms” that puts “even the most seasoned sailors to the test.” The camera then cuts to a crewmember who explains the terror of the ocean. “There was a moment last night where I got worried,” he explains, “I was in bed, and the ship kind of rolled and I didn’t think we were getting back up.” Likewise, always quick to capitalize off of the potential peril of his protests, Watson interjects, “We’re going to some of the roughest seas in the world . . . if you can get through the southern oceans you can get through pretty much anything.”²⁴⁸

Although the oceanic storms offer a sense of danger in the wilderness of the Antarctic territory, they are not the primary concern of Sea Shepherd. *Whale Wars* elucidates a second and primary danger in (and to) the wilderness—the savage Japanese. Initially, *Whale Wars*’ depictions of savagery are fixated on the actual Japanese whalers. This is primarily accomplished by directly juxtaposing the narrative of the sacred Antarctic wilderness to subsequent images of

whale slaughter. For example, immediately after cutting away from a clip of a seemingly happy whale flipping in the ocean, the narrator explains, “This season the Japanese whalers are planning to hunt and kill 935 Minke whales and 50 Fin whales in the protected southern ocean sanctuary.”²⁴⁹ Alongside this statement, there is a clip of a harpooned whale struggling as its crimson blood pours into the pristine waters.

Shortly thereafter, as even more interspersed picturesque panoramas of the Antarctic wilderness appear, the narrator begins to offer up a seemingly neutral defense for the whaling industry. Albeit, this defense is by no means impartial. The narrator explains that the Japanese whalers hunt for whales under the protection of a legal clause that allows for whaling in the name of research. Yet, while the narrator continues to explain the technical legality of Japanese whaling research, once again, supplementary images of whale carnage emerge with graphic scenes of the whales being harpooned, struggling for life, and then hoisted lifeless upon the blood-soaked decks of Japanese whaling ships. When the narrator wraps up this justification of Japanese whaling, yet another set of gruesome images emerge and the Japanese whalers are shown butchering and dissecting whale carcasses on blood-soaked ship decks.²⁵⁰ Hence, despite the explained legality of the whaling industry, the Japanese appear as savages and barbarians who butcher these innocent whales in mass.

Immediately after these gruesome scenes, *Whale Wars* transitions from this supposed justification of the Japanese whaling industry to an overt critique of the Japanese culture. Likewise, the narrator begins to explain the industrial process that allows for whales to be legally hunted, killed, and sold. Similar to the juxtaposition between the sacred wilderness and depictions of savage Japanese brutality, this explanation features additional images of whale slaughter at sea while pairing them with images of whale meat that is seemingly being butchered

for Japanese cuisine. In conjunction, Quartermaster Kim McCoy offers up her own anecdotal evidence of the seemingly barbaric practice of eating whale meat. “I’ve lived in Japan and happen to know that this whale meat winds up in *tsukiji*, in fish markets, [and] in restaurants,” she forebodingly adds. More clips are shown of Japanese people eating noodles filled with what can be assumed to be whale meat and the show cuts to Watson’s First Mate, who alerts the audience that, “They try to feed it to kids at schools, they try to make hamburgers out of it, I mean it’s a commercial venture, so lets face it, lets call a spade a spade.”²⁵¹

Interestingly, as *Whale Wars* quickly conflates the depicted savagery of whale slaughter with Japanese culture via food consumption, there is disjuncture regarding Sea Shepherd’s claims of Japanese dietary preferences; Sea Shepherd’s contention that whale meat is a popular Japanese dietary choice is somewhat mistaken. While it is true that eating whale meat is a part of Japanese culture, it is in fact not a large part of either contemporary or historic Japanese culture. In regards to Japan’s historical connections with whaling, as Morikawa explains, arguments about Japan’s “ancient whaling traditions” overlook a number of regional Japanese traditions where “whales were not eaten because they were clearly regarded as gods of good fortune that brought happiness and a good catch to coastal fishing communities.”²⁵² Even the ancient fishing villages that would sometimes eat whales, he adds, primarily did so when whales were washed on shore.²⁵³ Moreover, in regards to Japan’s modern history it wasn’t until the 1950s that whale meat became popularly consumed—and this consumption came about because U.S. General Douglas MacArthur encouraged the whale meat as a food source to ameliorate a food shortage post World War II.²⁵⁴ In fact, as articulated by the BBC, a recent study suggested that less than five percent of the current Japanese population eats whale meat.²⁵⁵ Likewise, even the whaling industry itself has admitted that they have had a problem connecting to a younger generation that

is particularly averse to eating whale meat.²⁵⁶ Ultimately, in addition to Sea Shepherd's somewhat erroneous food critiques, and much like the anti-Japanese propaganda of General MacArthur's time, the show supplements the ostensibly savage food consumption with a slew of bigoted attacks.

Beyond Sea Shepherd's portrayal of whale meat consumption, *Whale Wars*' racialized depictions of a savage Japanese culture emerge via their cultural attacks throughout the rest of the series. Sea Shepherd's racialized rhetoric is initially evidenced in the premiere with the crew's cries for the whalers to "go back to Japan." Sea Shepherd's racialization expands as the series continues.²⁵⁷ During the first season, the othering of the Japanese intensifies when Paul Watson strategizes the staging of a hostage situation where he has two crewmembers carry a letter transcribed in Japanese that childishy scolds them for their actions.²⁵⁸ Once aboard, the Japanese boat begins to pull away and Watson decides to berate the Japanese ship in English over the boat radio, while ignoring the fact that the boat crew has thus far displayed a very limited command of the English language. "What happened to the old Samurai spirit? It's not like the Japanese to go running like children, you know," he shouts into the microphone. "You come down here and you kill innocent whales, but when anybody comes after you, you run like cowards!"²⁵⁹ A crewmember then takes over the radio to translate as Watson further condemns the whalers: "You're murders . . . This is illegal. No good. It's really shameful." *Whale Wars* then cuts to Watson as he explains the conflict with interspersed quotes from Sun Tzu's *Art of War*, which is a very popular book in Japanese business culture.²⁶⁰ In doing so, Watson chuckles and asks the translator to follow up the taunts with the word *seppuku*.²⁶¹ When asked to explain what *seppuku* means, he offers up his interpretation for the Japanese term for an honorable suicide and simply states—"kill yourself."²⁶²

Sea Shepherd continues to racialize “the Japanese” throughout the rest of the series. After the first few seasons, *Whale Wars*’ racialized discourse became so prevalent that they incited large protests in Tokyo.²⁶³ In season four, they mocked the Japanese by naming one of their new boats *Gojira*, which was named after the infamous B-movie monster—*Godzilla*—that terrorized Japan.²⁶⁴ Perhaps to disavow increasing charges of racism, in an effort that poned of tokenism, Sea Shepherd brought aboard a Japanese volunteer in season four and added another one in season five.²⁶⁵ While Sea Shepherd claimed that both volunteers identities were concealed “for their safety,” and for the safety of “their families,” they prominently featured the blog of the volunteer identified herself as “Hana” on their website as tokenistic apologia for their protests.²⁶⁶

By the time the fifth season had aired, *Whale Wars* so openly reflected actual anti-Japanese WWII propaganda strategies that others began to take notice of the pronounced connections between the Sea Shepherd’s rhetoric and WWII depictions of a savage Japanese people. In 2012, these blatant connections prompted noteworthy Australian journalist Brendan O’Neill to write a column in *The Australian*. “Thanks to the eco-warriors of the anti-whaling lobby, who are currently clashing with Japanese whale-hunters in the Southern Ocean,” he contended, “the old, backward view of Japs as a peculiarly heartless people is making a comeback.” While referring to Sea Shepherd’s narratives in the aftermath of a conflict, he explained that “Sea Shepherd’s supporters treated us to stories about Japanese ‘dressed like ninjas’ who were . . . desperate to turn their moralistic mission against whale-murdering Japs.” After explaining the racialized sentiments of the crew, he then lambasted the Sea Shepherd website for their savage depictions of the Japanese:

Echoing World War II propaganda that tended to depict the Japanese as uniquely wicked—far more weirdly sadistic than the Germans, say—the Sea Shepherd

website informs us that the whaling carried out in the Southern Ocean is ‘cruel and barbaric, a gross sadistic perversion.’²⁶⁷

Additionally, as a follow up to the critiques of McNeill and O’Neill, the popular and reputable news blog, *JapanProbe*, went on to explicitly point out the overt connections between WWII propaganda and the anti-Japanese discourses of Sea Shepherd. In doing so, the blog drew attention to the numerous instances throughout the past thirty years that Paul Watson’s rhetoric has framed Sea Shepherd events within the purview of WWII atrocities. Addressing Watson’s rhetoric specific to the *Whale Wars*’ campaigns, the blog pointed out Watson’s comparison of Bethune’s arrest (which occurred after Bethune illegally snuck aboard a Japanese whaling ship) to Japan’s treatment of WWII Prisoners of War. Likewise, *JapanProbe* also pointed out Watson’s framing of the sinking of the *Ady Gil* in view of Japan’s infamous WWII sinking of an Australian hospital ship—despite the fact that it was later discovered that the *Ady Gil* had in fact been scuttled by Sea Shepherd (much to the chagrin of the billionaire philanthropist Ady Gil, who donated the ship that bore his namesake).²⁶⁸

Moreover, even the reactions to the events of *Whale Wars* reflected the racialized anti-Japanese sentiments of WWII’s prejudiced public. For instance, after Sea Shepherd members had caused an expensive Australian rescue, *JapanProbe* also polled reader opinions on “whether the activists should reimburse the Australian government for the expense of the rescue.” Afterwards, the blog reported that it was inundated with thousands of racialized comments such as “I understand what type of a lying and hateful breed of people the Japanese people are,” “I have yet to meet an honest and honourable Japanese person [sic],” and, “please donate to Sea Shepherd so they can fund these very important campaigns and hopefully save the planet and keep the disgusting [J]apanese race out of our beautiful and caring country.”²⁶⁹ Ultimately, through *Whale*

Wars' depictions of Japanese savagery, Sea Shepherd affirms Greenpeace's fears of radicalism by deploying a racialized protest rhetoric reminiscent of WWII propaganda.²⁷⁰

Understandably, in light of Sea Shepherd's regularly racialized rhetoric, Japan primarily defends its whaling practice on cultural grounds. Indeed, amidst the polemically propagandized protests of Sea Shepherd, the Japanese government articulates an understandable defense that strives to reclaim their cultural footing. Through words "Japan" and "the Japanese," explains Morikawa, the Japanese government continually invokes arguments about "tradition" and "culture" that are designed imply that the Japanese whaling industry "represents the interests and intentions of the Japanese people as a whole."²⁷¹ Fisheries Minister Yoshimasa Hayashi has also repeatedly tried to implore both stateside and global support for Japanese whaling by contending that whaling is a large part of Japan's culture. In response to one of Sea Shepherd's more shocking protests, he asserted:

Japan is an island nation surrounded by the sea, so taking some good protein from the ocean is very important. For food security, I think it's very important. So why don't we at least agree to disagree? We have this culture and you don't have that culture . . . please understand this is our culture.²⁷²

Indeed, for Hayashi, criticism against the Japanese whaling industry is a type of "a cultural attack, a kind of prejudice against Japanese culture."²⁷³ Katsuya Ogawa, a notable Japanese politician and advocate for whaling, echoed these similar sentiments. "We cannot take a weak attitude and end the traditions of research whaling," he proclaimed. "Let's unite and fight in order to protect whaling culture and its food traditions."²⁷⁴ Thus, in the face of waning support for whaling in Japan, the rebuttal to Sea Shepherd's rhetoric is likewise positioned on cultural grounds.

According to Melamed, neoliberal racialization recodes race into discourses about culture that were used as a way to justify “acts of force.”²⁷⁵ In this manner, she explains, neoliberal racialization, codes “the wealth, mobility, and political prowess of neoliberalism’s beneficiaries to be the just desserts of ‘multicultural world citizens,’ while representing those neoliberalism disposes as handicapped by their own ‘monoculturalism’ or other historical-cultural deficiencies.”²⁷⁶ In the case of Sea Shepherd, their discourse articulates a figuratively (and sometimes literally) violent discourse that attempts to save a guileful and “monocultural” Japanese people from their own self-destructive devices.

Conclusion

During WWII, when the United States began to direct their own propaganda strategies against the Japanese, they were quickly conflated with a stateside culture of Japanese people. As Koppes and Black explained, “So long as American media—and indeed many policy makers—continued to think of Asian enemies in racial terms, the American approach to Asian enemies would retain a particular and tragic virulence.”²⁷⁷ Likewise, this tragic virulence is reflected quite similarly in Sea Shepherd’s racialization. Indeed, the stage for polemic politics in *Whale Wars* was immediately set when the series started by explaining the crewmembers’ “hate” for the Japanese alongside pronounced shouts that they “go back to Japan!”²⁷⁸

In view of Sea Shepherd’s racialized overtures, perhaps it should be unsurprising that *Whale Wars*’ rhetoric explicitly reflected WWII anti-Japanese propaganda with a strikingly similar “tragic virulence”—a tragic virulence that operates similarly to Burke’s “tragic frame.” Building from Burke, A. Cheree Carlson explains that the “tragic frame” in social movements “projects ‘evil’ onto a ‘scapegoat,’ lays the blame at its feet, and ‘slays’ it.”²⁷⁹ When this tragic frame encapsulates Sea Shepherd’s image event, it allows for the protesters to produce a polemic

and propagandized protest that attempts to *slay* modern-day whaling practices by racializing a culture while offering up publicity-driven economic solutions to those perceived cultural deficiencies.

In the next chapter, I explore a public debate over the ontology of the pirate in regards to Sea Shepherd's protests. This debate serves as a platform to highlight the extent of which the categories of piracy and privatization can be superimposed on protesting publics in neoliberal capitalism.

Chapter 4

Prognosticating the Parameters of Piracy and Public Resistance: Sea Shepherd, the Privatization of Conservationist Publics, and the Jurisprudential Legitimacy of Neoliberal Polity

“The only rules that really matter are these: What a man can do and what a man can't do. For instance, you can accept that your father was a pirate and a good man or you can't—but pirate is in your blood boy, so you'll have to square with that some day.”

—Captain Jack Sparrow, *Pirates of the Caribbean*²⁸⁰

“Hence, I conclude, that in boasting himself to be high lifted above a whaleman, in that assertion the pirate has no solid basis to stand on.”

—Captain Ahab, *Moby Dick*²⁸¹

In Chief Judge Alex Kozinski's contentious 2012 ruling, he denounced the Sea Shepherd Conservation Society as “the very embodiment of piracy.”²⁸² This charge of piracy likely came as no surprise to Sea Shepherd. The activist's rather confrontational social protests in the Antarctic seas had already incited a number of highly publicized accusations from the Japanese whaling industry that their protests were akin to piracy. Moreover, as exemplified by their skull-and-crossbones logo, Sea Shepherd had long embraced a pirate motif for branding purposes. However, it was not until Judge Kozinski's ruling in Washington's Ninth-Circuit District Court that the criminal dimensions of Sea Shepherd's piracy gained legal traction—holding potentially dire ramifications for the future of both the protesters and social protest writ large.

The Japanese whaling industry—led by a partnering of state and corporate entities consisting of the Japanese Ministry of Fisheries, the Japanese Institute for Cetacean Research, and Kyoto Sempaku Ltd.—had been attempting to prosecute Sea Shepherd for a number of

years. Before the case against Sea Shepherd made it to the United States, for instance, they tried and failed to sue Sea Shepherd on the grounds of illicit piracy in both the courts of Australia and New Zealand.²⁸³ With their failed attempts, in early 2012, the Japanese whaling industry moved their prosecution to the United States. Initially, the case was brought to U.S. District Judge Richard Jones and the plaintiffs were again met with failure. With little fanfare, Judge Jones refused to offer an injunction against Sea Shepherd and asserted that their protests were indeed *not* tantamount to criminal piracy on the high seas. Judge Jones concluded that the court would follow the precedent set by other nations, such as Australia and New Zealand, and would in no way use the courtroom to condemn Sea Shepherd's protests.²⁸⁴ Sea Shepherd lawyer Dan Harris heralded Judge Jones' ruling and likened the Japanese whaling industry to "a heroin dealer" that was dubiously using "federal court" to do their bidding.²⁸⁵

Sea Shepherd's stateside victory was short lived. Less than a year after Judge Jones' decision, the plaintiffs appealed and the case was brought forth to Judge Kozinski. In a controversial twist, Judge Kozinski overturned the initial decision and asserted that Sea Shepherd's protests had indeed entered the legal realm of criminal piracy. In what was deemed a "colorfully worded" decision by media outlets, Judge Kozinski assailed Sea Shepherd and used the courtroom to condemn them as pirates.²⁸⁶

Understandably, Sea Shepherd was publically dismayed with both the overturned decision and the animated accusations of piracy. Sea Shepherd U.S. Director Scott West chastised the decision. "Judge Jones took a lot of care in his 44-page ruling, but the Court of Appeals tossed him under a bus," he exclaimed. "They took a thoughtful, reasoned decision and turned it into dime store novel crap."²⁸⁷ Legal experts were also in shock of Judge Kozinski's decision. For instance, law professor Karen Scott was appalled that Judge Kozinski's ruling had

flippantly disbanded both Australia and New Zealand's previous rulings in favor of Sea Shepherd. "I don't agree with the [U.S.] court's interpretation of piracy, which has the effect of substantially broadening the scope of this offense," she explained. "These rights do not generally apply to other offenses committed at sea . . . It would appear that not only is the battle in the Southern Ocean on-going, but an equally undignified one is developing in the US courts over this matter."²⁸⁸

On the grounds of illicit piracy, Judge Kozinski's decision resulted in a court injunction that held substantial implications for the future of Sea Shepherd's protests. The injunction ordered that Sea Shepherd vessels keep a strong distance from the Japanese whaling vessels.²⁸⁹ Moreover, beyond creating physical distance between Sea Shepherd and the Japanese whalers, Kozinski's decision also drove a wedge between Sea Shepherd and the corporation that was responsible for the *Whale Wars* series that had been integral to Sea Shepherd's (highly publicized) successes, Discovery Inc. (Discovery).

As Judge Kozinski's injunction explicitly included "any party acting in concert" with the maritime activists in the injunction, Discovery, and their Animal Planet channel, began to distance themselves from Sea Shepherd's protests.²⁹⁰ Although, in light of the injunction, Animal Planet President Marjorie Kaplan affirmed that *Whale Wars* reflected a "very central" aspect of their values, she was quick to express her mounting frustration with Sea Shepherd and described their legal issues as a "freakin' mess."²⁹¹ Subsequently, Julie Wolf, Animal Planet's Senior Vice President of Business and Legal Affairs, released a statement that publicly distanced Animal Planet's ideological alliance with Sea Shepherd's protests from their material collaboration with the activists. The statement explained that Animal Planet could not be held accountable for Sea Shepherd's actions, emphasized that their ongoing collaboration with Sea Shepherd had been

merely “journalistic,” and that they had offered “absolutely no payment for support of their cause.”²⁹² Consequently, with Sea Shepherd’s mounting legal complications, Animal Planet removed their film crew from the activist’s boats and reduced the next *Whale Wars* season to a mere two-hour special.²⁹³ The news of the reduced season incited speculation that the show would be canceled and Sea Shepherd’s days in the conservationist limelight would likely follow suit.²⁹⁴ Thus, while the Japanese whaling industry had been on the losing side in a number of *Whale Wars* battles with the sea-born activists, through the courtroom they were now winning the whaling war.

In 2014 the Japanese whaling industry’s success in prosecuting their protestors was augmented when, after Sea Shepherd failed to work around the injunction, the high-profile protestors were found in contempt of court. After Judge Kozinski’s ruling, Sea Shepherd attempted a workaround and put together another protest campaign against Japanese whaling industry. Although the campaign was arguably the most successful in Sea Shepherd’s history, the activist organization was found in contempt of the court’s decision.²⁹⁵ This cost Sea Shepherd dearly—forcing them to settle with their protested plaintiffs for over \$2 million.²⁹⁶ Not only did this settlement remunerate their anti-environmentalist antagonists in a manner antithetical to their cause, but it was also an incredulous sum for an organization that, in the preceding year, had only declared \$3 million in assets.²⁹⁷

The rub between Judge Jones’ and Judge Kozinski’s rulings is of compelling interest to rhetorical scholars because it addresses the tensions between protest and privacy, on the one hand, and, on the other, competing visions over the scope of the public sphere. As the categories of protest and piracy are superimposed upon the sea-born activists by the courtroom, it is the state that decides what types of protests are legally palatable; an act that holds the political

legitimacy of Sea Shepherd's voice of public resistance to the fire. In this manner, this chapter explicates the two Judges' rulings and illuminates one way in which the legitimacy of public protest can be calibrated to one's vision of the public sphere. Likewise, as Sea Shepherd's protests were found to involve violence while seeking to commandeer state power for their own privatized goals, this chapter contends that Judge Kozinski's obstinate pronouncement of piracy shrinks the realm of 21st century public protest.

In order to address the private and public domains of both piracy and protest, this chapter is broken down into several sections: The first section, presents a context for understanding tensions between the neoliberal courtroom and modern-day piracy. The second section analyzes Sea Shepherd's legal proceedings, illustrates how legal disputes over piracy are calibrated to the Judges' vision of the public sphere, and elucidates the way in which the courtroom serves to delegitimize Sea Shepherd as a conservationist public. Finally, as I bring this chapter to a close, the final section discusses Sea Shepherd's potential for political perseverance amidst their protest prosecution.

Pirates, Protest, and the Neoliberal Courtroom

One of the undisputed factors in the materialization of neoliberal capitalism is the drastically altered role of the regulatory state. Through the widespread emergence of transnational globalization, the state's ability to regulate the private interests of aggregate corporate power has seemingly vanished. Likewise, privatized entities have not only been able to trump regulatory state power, but the state arguably carries a primary function of sustaining and legitimizing the privatized interests of corporate power. In this manner, amidst the rise of neoliberal capitalism, state power and corporate power have become palpably switched from their traditional roles of liberal capitalism.²⁹⁸

The courtrooms of neoliberal capitalism have evidenced a privileging of privatized corporate interests at the expense of protesting publics. As Wendy Brown asserts, through the rise of “market democracy,” the power of democratic governance to be driven by “popular sovereignty” is instead propelled by the power of corporate capital. This shift, she avers, is made especially apparent as “domestic social movements and international human rights campaigns are increasingly conferred to courts.” The relegation of which, she adds, “effectively usurps the classic task of democratic politics.”²⁹⁹ Likewise, the legitimization of privatized corporate interests by state power can also be evidenced through legal reforms that recently moved to classify corporations as people. Through the contentious rise of transnational corporate personhood, corporations are increasingly afforded privatized legal rights that have been traditionally offered in exclusivity to the private citizens of a state.³⁰⁰ However, it should be noted that the state’s move from a regulatory relationship *over* corporate power to an apparent partnership *with* these privatized interests, has not left the state bereft of regulatory power. Indeed, neoliberal capitalism needs a strong regulatory state to legitimize the interests of corporate power. Undeniably, neoliberal capitalism would be unable to function—let alone flourish—without the globalized communication routes, transportation, collaboration, communication, and the general freedom of movement that is entirely made possible by state regulation.

Interestingly, state regulatory power has evidenced a historical nemesis in pirates, whom can easily be perceived as a threat to the pragmatic operatives of a neoliberal order. American jurisprudence, for instance, has long battled with the antagonistic interests of piracy on a transnational stage, and this history has played a strong part in establishing contemporary parameters for piracy. The attacks of the Barbary pirates off the North African coast, for

example, posed a major problem for a young American state. As Ben Voth summarizes, “The [Barbary] pirates viewed all commercial ships in the Mediterranean as ‘fair game’ in an elaborate extortion scheme that that would trade captured ships for ransoms paid by host governments.”³⁰¹ In response to this influx of piracy, and the corresponding problems posed by a lack of state-sanctioned power to respond, it was Thomas Jefferson who offered a solution. In order to rectify state issues with piracy, Jefferson, through Judiciary Act of 1789, brought forth the Alien Tort Statute (ATS)—an incredibly important statute that enabled nation-states to prosecute piracy via the American legal system for the next 200 plus years.³⁰² In fact, as this chapter will discuss in further depth, this very same ATS carried serious weight in the protests of Sea Shepherd and a number of other activist organizations over the past decade.

Contemporary definitions of piracy are often caught up in legal discourse that concerns itself with the privatized interests of corporate capital and the regulatory power of the state. By the twentieth century, practices of piracy had been considered eradicated; they were largely considered a marginal nuisance with romanticized historical ties.³⁰³ Yet, within the past few decades, amidst the rise of neoliberal capitalism, issues of piracy returned. As Terence Fokas points out, alongside the emergence of neoliberal capitalism, the 1970s and 1980s brought a reemergence of piracy, creating “a new breed of buccaneers...to threaten the passage of ships across the world’s oceans.”³⁰⁴ As a reaction to the modern upwelling of piracy, the United Nations decided to redefine piracy through the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Ultimately they decided on a definition that put particular emphases on state jurisdiction, overt issues of violence, and privatized interests at sea. UNCLOS explains that “illegal acts” of “violence,” “detention,” or “depredation,” which are “committed for private ends by the crew or the passengers of a private ship or a private aircraft” are indeed piratic.³⁰⁵

Moreover, these piratic acts must take place either on the “high seas” or the oceanic territories that fall “outside the jurisdiction of any State.”³⁰⁶ This is not to suggest that acts of “violence” for “private ends” that occur on the “high seas” fall outside regulatory state power; a ship can certainly be considered piratic if it does not carry proper state affiliation, even when sailing outside of state jurisdiction.³⁰⁷ Thus, modern-day piracy can be summarized as a party who acts violently towards another ship for a privatized agenda that operates without regard to the regulatory power of the state.³⁰⁸

Sea Shepherd’s charge of piracy has been a significant roadblock as they seek to move their public voice of conservationism from the type of publicity that garners widespread support, to actually establishing political legitimacy within American jurisprudence. As Nancy Fraser contends, for publicity to produce lasting political results, it must be legitimized through “binding laws” and “administrative power.”³⁰⁹ And while the courtroom has the ability to legitimize public resistance through its laws and political power, Sea Shepherd’s protests demonstrate how the courtroom can work to delegitimize voices of social protest. Much like Kenneth Burke’s notion of a “terministic screen,” where the terms used direct one’s attention “to one field rather than the other,” Judge Kozinski’s rhetorical (and legally binding) acts of denouncing Sea Shepherd as pirates simultaneously directed attention to the criminal dimensions of piracy, bracketed their interests as private instead of public, and ultimately deflected attention from the more affable aspects of their pirate brand.³¹⁰

Ultimately, as the next section explicates, throughout Sea Shepherd’s courtroom proceedings the concepts of piracy and privacy became inextricably linked. In this manner, courtroom discussions about whether or not Sea Shepherd’s protests were tantamount to piracy

hinged on whether or not their protests enacted violence while seeking to commandeer the power of the regulatory state for their own private interests.

Neoliberal Legitimacy and the Courtroom: Protesters, Pirates, Privatization, and State Power

Drawing upon the UNCLOS definition of piracy, both judges decisions centered upon themes of violence, private ends, and state power. According to Judge Jones, the UNCLOS definition should be used to define piracy.³¹¹ While Judge Jones did not condone Sea Shepherd's protests, he ruled that the U.S. court system could not, and should not, aid the Japanese whaling industry by issuing an injunction against the protesters. In doing so, he made three primary arguments: First, he suggested that Sea Shepherd's protests were more "mischievous" than violent. Second, he asserted that Sea Shepherd's lack of "financial enrichment" as an end goal did not qualify their protests as serving the type of "private ends" typically found in piracy. Third, he declared that the U.S. court would not engage in an international dispute.³¹²

Contrarily, Judge Kozinski countered each point as he chastised Judge Jones' decision: First, he asserted that Sea Shepherd's protests went beyond mere mischief; they were violent and therefore provided a foundation for piracy. Second, he asserted that Sea Shepherd's protests did not offer a public service, which relegated their conservationism to the private domain. Finally, Judge Kozinski chastised Sea Shepherd for trying to usurp the regulatory power of the state and advocated that this international dispute fell under U.S. jurisdiction.

At the heart of both of the judges' decisions was an attempt to draw from a sound definition for modern-day piracy. "Sea Shepherd argues for a narrow view, claiming that 'piracy' is no more or less than robbery at sea," explained Judge Jones. "The whalers argue for a broader

definition that includes other acts of violence against ships on the high seas.”³¹³ Judge Jones also expounded upon the complexities involved in constructing a legal definition of modern-day piracy. “The question before the court is what ‘piracy’ means today as a matter of specific, universal, and obligatory international law,” he explained. “Even among judges in the same district court, there is substantial disagreement [over what it means to be engaged in piracy],” he added.³¹⁴ After reviewing the modern uses of piracy in a legal setting, Judge Jones settled on the UNCLOS definition as an acceptable basis for constructing a legal definition of modern-day piracy. “Reduced to their essence,” he explained, “UNCLOS’s anti-piracy provisions target ‘acts of violence . . . committed for private ends by the crew or passengers of a private ship . . . directed against a ship . . . outside the jurisdiction of any State.’”³¹⁵ In this manner, Judge Jones suggested that in order to elicit an injunction on the grounds of piracy, the Japanese whaling industry must offer up evidence that Sea Shepherd’s protests were indeed violent, served their own private ends, and that their protests operated outside of the international jurisdiction of U.S. state power.

Sea Shepherd and Judge Jones

Although Judge Jones did not condone the aggressive nature of Sea Shepherd’s protests, he sided with the defendants and agreed that their protests were not necessarily violent due to a lack of evidence that their protests actually inflicted physical harm. It is “incumbent upon the whalers to show that Sea Shepherd’s tactics are ‘violent’ within the meaning of customary international law,” he explicated. Accordingly, he concluded that “Sea Shepherd does not target people, and although its tactics sometimes target the whalers’ ships, it is not apparent that the nations of the world would agree that tactics that resemble malicious mischief amount to piratical ‘violence.’”³¹⁶ Thus, for Judge Jones, the lack of evidence to support that they had physically

hurt anyone in “eight whaling seasons” was enough for him to advocate that Sea Shepherd’s protests were indeed non-violent.³¹⁷

Judge Jones also concluded that Sea Shepherd’s protests could not be considered piratic because they did not serve private ends. “In the ordinary case, pirates seek financial enrichment, the prototypical private end,” he explained. “Sea Shepherd is uninterested in financial gain; it seeks to save the lives of whales in the Southern Ocean.”³¹⁸ Thus, while admitting to the possibility that Sea Shepherd, specifically through their show *Whale Wars*, may potentially gain much from their activist campaigns, he concluded that any financial gain is merely a side effect of their protests. “Financial gain is . . . merely a byproduct,” he explained, “Sea Shepherd would cease its ‘piracy’ immediately if the Plaintiffs stopped killing whales.”³¹⁹ Thus, Judge Jones sided with Sea Shepherd because of their legitimate protest directive and deflected any piratic nature or private interests that would delegitimize them as a conservationist public.

As Judge Jones returned again to issues of violence, he strongly advocated that there was no legal precedent to frame Sea Shepherd’s conservationist protests as having a private end. “Absent an international consensus that preventing the slaughter of marine life is a ‘private end,’ the court cannot say that there is a specific, obligatory, and universal international norm against violence in the pursuit of the protection of marine life,” he clarified. “Even if there were such a norm, it would be incumbent upon the whalers to show that Sea Shepherd’s tactics are ‘violence’ within the meaning of customary international law.”³²⁰ Thus, Judge Jones resolved that Sea Shepherd’s conservation efforts were not financially driven and therefore did not reflect a traditional understanding of private ends. Moreover, he suggested there was no legal precedent to support the prosecution of violent conservationism, which was a moot point due to a dearth of evidence to support that Sea Shepherd’s protests actually caused physical harm.

In the final statements before his conclusion, Judge Jones expressed a keen interest in keeping transnational matters of public protest outside the jurisdiction of the U.S. legal system. Addressing the geopolitical constraints of the U.S. court, Judge Jones deferred to the previously upheld decisions of Australia and New Zealand and proclaimed that matters of social protest should be relegated to the political arena and not U.S. courts:

Australia and New Zealand, the two nations in closest geographical proximity to the dispute, have not intervened directly. They have been content to apply political pressure (and, in Australia's case, to file suit in the ICJ). The United States, which has not only a naval force but also the coercive power to target Sea Shepherd's operations within its borders, has similarly confined its intervention to the political arena. Japan, whose citizens and ships are allegedly at risk, has also chosen to employ political countermeasures rather than its coercive power. It is not in the public interest for a United States court to exercise its discretion to bring its modest coercive powers to bear when every nation has declined to do so.³²¹

As Judge Jones deferred to Australia and New Zealand's jurisdiction over the Antarctic territory, he also cautioned that the U.S. was not in position to enforce an injunction in the Antarctic territory. "Everyone concedes that were the court to grant the injunction the whalers seek, the court cannot directly enforce it," he explained. "The court has no armada to dispatch to the Southern Ocean. But even when a court issues an injunction against conduct within its traditional geographical jurisdiction, it rarely if ever enforces the injunction directly. Instead, courts enforce their equitable decrees through contempt proceedings."³²² For Judge Jones, public matters of protest should be addressed with "political countermeasures" and not through the "coercive

power of the court.”³²³ In this manner, Judge Jones believed the U.S. should relinquish their authority to nations who are better suited to monitor whaling practices in the Antarctic seas, such as Australia and New Zealand.

In his conclusion, Judge Jones built upon his desire to see matters of public resistance resolved via political avenues, rather than through the courtroom, and he chastised the Japanese whaling industry for seeking to solicit the latter. For Judge Jones, the Japanese whaling industry’s petition for injunction was an “extraordinary” request, because it asked the court to break a precedent set both stateside and abroad. “The whalers asks the court to do what perhaps no United States court has ever done [sic] . . . to use its injunctive power to enforce international law to quell not merely a dispute between people from different nations, but a dispute that arises from an international political controversy,” he explained. Following this statement, he pointed back to “the nations of the world” who have “chosen not to intervene directly.” The whalers also “ask the court to do what no nation will do . . . to condemn Sea Shepherd’s conduct not merely with words, but with its injunctive power.” Judge Jones followed this remark with a simple concluding statement: “The court will not do so.”³²⁴

In sum, through Judge Jones’ analysis of violence, private ends, and state power he ultimately refused to condemn Sea Shepherd’s protests as piratic. In the process, Judge Jones legitimized Sea Shepherd as a protesting public and refused to move the international politics of conservationism under the domain of the American courtroom. Yet, eight months later, in a stark shift of perspective, Judge Kozinski overturned Judge Jones’ decision.

Sea Shepherd and Judge Kozinski

With the prosecution of Sea Shepherd on the grounds of piracy, similarly to Judge Jones, Judge Kozinski needed to first articulate a legal definition of piracy. In a rare point of synthesis,

Judge Kozinski also decided the UNCLOS definition of piracy was fitting for his courtroom. However, for Judge Kozinski, each point of the UNCLOS definition served as platform to rebuke Judge Jones' decision. Acts of piracy, Judge Kozinski explained, occur "on the high seas," transpire when one ship imposes "illegal acts of violence" upon another ship, and are "committed for private ends by the crew or passengers of a private ship [sic]." ³²⁵ After laying out this definition, Judge Kozinski undermined Judge Jones' decision while placing a particular emphasis on "an erroneous interpretation" of both "private ends" and "violence." ³²⁶

Drawing from the UNCLOS definition, Judge Kozinski asserted that any act of intentional "violence" that is committed on the high seas for "private gain" should be considered piracy. ³²⁷ For Judge Kozinski, Sea Shepherd's protests went beyond Judge Jones' perception of protest mischief. Judge Kozinski assailed Judge Jones' ruling, which had affirmed that Sea Shepherd's protests could not be considered violent because they targeted "ships and equipment rather than people." ³²⁸ These assertions brought him to his decisive (and often-quoted) synopsis of Sea Shepherd's piracy:

You don't need a peg leg or an eye patch, when you ram ships; hurl glass containers of acid; drag metal-reinforced ropes in the water to damage propellers and rudders; launch smoke bombs and flares with hooks; and point high-powered lasers at other ships, *you are, without a doubt, a pirate*, no matter how high-minded you believe your purpose to be. ³²⁹

Therefore, for Judge Kozinski, Judge Jones' logic was flawed. It didn't matter that in nearly a decade of documented and highly publicized protests they had no record of causing physical harm: Sea Shepherd's actions were indeed violent, a fact that positioned their protests as piratic.

While acts of violence lay at the root of Judge Kozinski's conception of piracy, he also spent much time explaining their protest as an operative for private ends. In explicating his interpretation of private ends, Judge Kozinski chastised Jones for conceptualizing private ends within a narrow scope of "financial enrichment." Instead, Judge Kozinski turned to *Webster's New International Dictionary* to provide a concrete definition of what constitutes an act as private: "Belonging to, or concerning, an individual person, company, or interest."³³⁰ Likewise, Judge Kozinski broadened his definition of private ends to all "matters of a personal nature that are not necessarily connected to finance." Thus, for Judge Kozinski, the "private" interests of Sea Shepherd were antithetical to those of the "public," which included any issues of a "moral" nature—such as activist conservationism.³³¹ In this manner, Sea Shepherd's protests did not offer a public benefit: they were simply self-serving. And, since Sea Shepherd's protests professed a sense of violence, which served their own private ends, they were enthymematically pirates. "Clear instances of violent acts for private ends," avowed Judge Kozinski, marked Sea Shepherd as "the very embodiment of piracy."³³² Thus, with a fell swoop, Judge Kozinski shrank the realm of public protest while expanding the domain of both private interests and piracy.

Vigilantes and the Vox Populi

Understandably, Sea Shepherd challenged Judge Kozinski's claims of their violence. While the conservationists had successfully argued to Judge Jones that they could not be pirates, since their protests were deemed as non-violent, they altered their stance with Judge Kozinski. In their defense to Judge Kozinski, they argued that his charge of piracy was actually a type of vigilantism. This vigilantism, they contended, was necessary due to the state's inability to defend a marine ecosystem that is necessary for global survival. Moreover, they asserted that their vigilante protests are in fact legally sanctioned, since they fall under the jurisdiction of the

United Nations World Charter for Nature, which “allows for non-government organizations and individuals to uphold international conservation law.”³³³ Thus, for Sea Shepherd, as vigilantes, they provided eco-resistance (and justice) as the *vox populi* of conservationism.

The argument that Sea Shepherd’s protests provided a vigilante-esque legal public service was not confined to the courtroom, as they had been regularly framing their activist engagements as vigilante protests throughout their various films, shows, and public statements. In doing so, they had long situated the ocean as a lawless space that was in dire need of their defense due to the failure of the state to offer adequate environmental protection. As Paul Watson explains in an interview, “We shouldn't be doing this. Governments should be doing this, [but] if they're not going to do it, we will.”³³⁴ This notion had been repeatedly evidenced in Sea Shepherd’s antagonistic rebukes of various governments—such as Japan, Costa Rica, Canada, Iceland, Norway, and Denmark—for supporting practices and policies that they view as ecologically destructive. They even critiqued the regulatory state entities that had sided with their interests—such as Australia, New Zealand, and the United Nations—for failing to provide enough protection for surrounding oceanic territories.³³⁵ There is “no government” in the world that protects whales, “it’s all in our hands,” implored an impassioned Sea Shepherd trainer during an orientation session on *Whale Wars*.³³⁶

In line with Sea Shepherd’s defense of vigilante-style conservationism, Sea Shepherd’s documentaries also point to the legal failure of the state as a driving premise of their organizational cause. In the trailer of *Eco Pirate: The Story of Paul Watson*, for instance, the narrator frames the film by asking, “What if the most important place on earth...was completely lawless?”³³⁷ The narrator then explains, “Thirty years ago the ocean was a lawless place. With no one to protect [the ocean], the sea was being plundered, threatening the very balance of life. And,

to save the planet, it would take an outlaw.”³³⁸ With the ocean framed as a lawless place, Sea Shepherd openly contended that they were free to operate independently of state regulation through vigilante protests that serve the public good. “You only have vigilantes when there is an absence of law,” explains Watson.³³⁹ Similarly, Watson elaborates in Sea Shepherd’s *Eco Pirate* documentary,

You don’t walk down the street and see a woman being raped and do nothing.

You don’t see a child being molested and do nothing. You don’t see a kitten being stomped and do nothing. And you don’t just sit there and watch a whale die, take his picture, and do nothing—that’s just cowardice.

Indeed, for Sea Shepherd, state regulatory power had long failed to protect the environment and their conservationist protests were a vigilante-like public service that protected global interests.

Judge Kozinski, however, did not agree that Sea Shepherd’s vigilante protests should operate in lieu of the state’s apparent failure to offer adequate environmental protection. In fact, for him, Sea Shepherd’s protests were *further* reflective of criminal piracy because of their desire to commandeer state power.³⁴⁰ Judge Kozinski was adamant that U.S. courts could not, “condone violent vigilantism by U.S. nationals in international waters.”³⁴¹ Thus, having already adamantly decried Sea Shepherd’s protests as violent and self-serving, and thereby piratic, he advocated the need to for the court to place Sea Shepherd’s activities under the state regulation in order to protect Japanese sailors. Although he agreed that the ecosystem was a public interest, in terms of whaling, he asserted that it is the state’s job *alone* to protect public interests. For this reason, he pointed to state sanctioned regulations that allowed for scientific research under “the Whaling Convention” and suggested that Japan has met those regulations.³⁴² In terms of enforcing

whaling regulations, Judge Kozinski explained that it was in fact Australia's job to police the Antarctic territory and make sure that corporate motives were not environmentally problematic. "It is for Australia, not Sea Shepherd, to police Australia's court orders," he pronounced.³⁴³ Intriguingly, almost as quickly as Judge Kozinski avowed Australia's state sanctioned power to regulate whaling in the Antarctic territory, he also undermined their authority.

In a contradictory move, Judge Kozinski proclaimed that the he did not recognize Australia's claim to the Antarctic territory, while also suggesting that Japan should not either. In doing so, Judge Kozinski pulled Sea Shepherd's protests entirely under the domain of the U.S. court. He called Judge Jones' deference to Australia's judgment an "abuse of discretion." And, in stark contrast to his earlier claim, he also emphasized "the United States doesn't recognize Australia's claims of sovereignty over Antarctic waters." Indeed, for Judge Kozinski, any recognition of "Australia's jurisdiction stands in contravention to the stated position of our government."³⁴⁴ This stance was further portrayed in his disavowal of Judge Jones' declaration of *unclean hands*—the legal term associated with a breach of ethicality on the part of the plaintiff— which proclaimed that by "flouting the Australian injunction, whalers demonstrate their disrespect for a judgment of a domestic court."³⁴⁵ Thus, according to the Judge, neither the U.S. legal system nor the whalers were under any obligation to maintain any sort of "respect to the Australian order" and Sea Shepherd must abide by the soon-to-be-issued U.S. injunction.³⁴⁶ Thus, in the process of denouncing Sea Shepherd as pirates, Judge Kozinski's decision had seemingly also rendered the public ecosystem bereft of state protection.

Sea Shepherd's vigilante defense sought to move the parameters of public and private, and pirate and protester, back into their preferred domain. As vigilantes they were serving the public, which meant their interests were in no way private. Likewise, if their protests did not

serve private ends, then they could not be constituted as pirates. For Sea Shepherd, the only thing that linked them to piracy was their playful pirate-esque brand, which they believed reflected a vigilante-style of activism—a necessary public service due the state’s failure to restrict corporate participation in environmental destruction. Yet, Judge Kozinski saw things quite differently and succinctly accused them of confusing the “symbolic” piracy of their activist brand with actual criminal piracy.³⁴⁷

According to Nancy Fraser, Sea Shepherd’s legitimacy would have to be enacted through “binding laws” for conservationist change. Although Sea Shepherd produced a “political force” of publicity with their brand of activism, through the courtroom, their vigilante-style activism failed to become legitimate; the courtroom mandate that implicated them on grounds of piracy delegitimized their activism as a valid form of resistance to corporate power. In this manner, despite their success using piracy in their brand, the same piracy that had been central to Sea Shepherd’s brand of public resistance was now used to undermine the legitimacy of their protests. “[I]n public sphere theory,” Nancy Fraser explains, “public opinion is considered legitimate if and only if all who are potentially affected are able to participate as peers in deliberations concerning the organization of their common affairs.”³⁴⁸ With Judge Kozinski’s verdict, Sea Shepherd’s protests became privatized like that of a corporation, but without any of the privilege that is habitually afforded to corporations by neoliberal state power.

Sea Shepherd’s Workaround

Despite Judge Kozinski’s harsh reprimand, Sea Shepherd attempted to usurp the injunction. By relying on their own transnational interests and affiliations, they believed that they could use the transnational powers of regulatory state bodies to their benefit. “The ruling is irrelevant,” Watson decreed in response Judge Kozinski’s decision. “These operations will not be

affected at all. The judges didn't seem to understand that Sea Shepherd is registered in a couple dozen countries.”³⁴⁹ Thus, by using their international ties Sea Shepherd attempted to workaroud the injunction.

Always ready to garner publicity, Sea Shepherd's workaroud was depicted in detail during the ensuing *Whale Wars* season, which in the aftermath of their legal struggles had now been reduced by Animal Planet to a mere two-hour special. During the special, it was quickly made apparent that, due to legal constraints, Watson would be unable to physically join (or lead) the protest campaign. After the crew mourned the loss of Watson's leadership presence, Watson's Swedish understudy and newly appointed ship captain, Peter Hammarstedt, took charge. A dramatic culmination of their Hammarstedt-led protests came when his Sea Shepherd ship almost capsized during a collision with a Japanese whaling vessel named the *Nisshin Maru*. Once in place, the maneuver allowed Sea Shepherd to block Japanese whaling ships from being able to refuel and Sea Shepherd held their ground until the fleet left the Antarctic seas. “[Hammarstedt's] act saved quite a few whales,” explained Watson on screen. After the event, the special ended with a hurrah as Watson applauded the Sea Shepherd crew for causing the Japanese whalers to collect their lowest catch in the history of Sea Shepherd's protests. “I think that this is the century that we're going to find that whaling will be tossed into the dustbin of history and left for what it is: antiquated, unnecessary, barbaric, uncivilized and no place in the modern world,” he exclaimed while toasting the crew. “So thank you all for participating and thank you for the success.” And, with a sly smile Watson quipped with a bellow—“You bunch of bloody pirates!” The crew, of course, roared with approval.³⁵⁰

Although the maneuver provided sound entertainment value, it publically defied “the spirit” of Judge Kozinski's verdict on a global stage.³⁵¹ Judge Kozinski had ordered that Sea

Shepherd must remain “at least 500 yards away from Japanese whaling vessels” and the Hammarstedt-led collision put Sea Shepherd in jeopardy of being held in contempt of the court’s ruling.³⁵² Moreover, in order to accomplish the successful protest campaign, the U.S. branch of Sea Shepherd had disbursed ships and equipment to their international affiliates, committing another act of defiance towards of the injunction. Thus, Sea Shepherd’s fate was sealed. “As a party to the injunction,” the motion for contempt surmised, “Sea Shepherd US is liable because it intentionally furnished cash payments, and a vessel and equipment worth millions of dollars, to individuals and entities it knew would likely violate the injunction.”³⁵³ Sea Shepherd then settled with their protest prosecutors for \$2.55 million.³⁵⁴ Yet, before paying out the Japanese whaling industry, Sea Shepherd made one last attempt to avoid their state-sanctioned sanctions.

Sea Shepherd’s Appeal

Before the payout, Sea Shepherd decided to go back to court once more and appeal to the U.S. Supreme Court. In order to do so, Sea Shepherd returned to an argument that was used to prosecute them as pirates—the ATS. Historically, the ATS was birthed in 1789 and “conferred federal jurisdiction” of the courts over a “tort,” or legal offense, “committed in violation of the law of nations or a treaty of the United States.”³⁵⁵ As Marouf Hassan Jr. and Megan McFarlane explain, after Jefferson’s use of ATS for piracy, “American courts served as the venue for a few foreign suits about piracy that were based on the Alien Tort Statue jurisdiction, but after that the ATS became a dormant fragment for nearly 200 years.”³⁵⁶ In the early 1980s, the ATS was resurrected as a means for victims of global human rights violations to sue corporations in U.S. federal courts.³⁵⁷ Yet, in 2013, the ATS became the a topic of public debate when the Supreme Court, led by Chief Justice Roberts, put an end to the use of using the ATS as a means for victims of human rights violations to prosecute transnational corporations. Judge Roberts threw

out the case based on the “presumption against extraterritoriality,”³⁵⁸ which “is an interpretive rule that provides that a law does not apply to events abroad unless it explicitly says so.”³⁵⁹

While many human rights activists were dismayed by the decision (arguing that “the decision means that foreign governments and corporations will be able to violate human rights with impunity”) Sea Shepherd opportunistically used the twist to their advantage.³⁶⁰

In their initial proposal, with Judge Jones presiding, the Japanese whaling industry used the ATS to prosecute Sea Shepherd. For them, Sea Shepherd’s delegitimized protests on the grounds of piracy provided grounds for U.S. prosecution, despite the fact that the protests occurred outside of U.S. jurisdiction. Conversely, the activists argued the court could not “grant injunctive relief in an ATS case.”³⁶¹ Judge Jones found both the invoking and the defense of the ATS argument problematic for two reasons: First, he asserted that Sea Shepherd was wrong in suggesting that the ATS’s power should be limited. “No one suggests that Congress has limited the power of courts to exercise their equitable powers in ATS cases,” he asserted.³⁶² Second, he contended that the ATS could only be invoked on grounds of piracy. “[F]ederal courts have historically accepted the notion that a pirate may be tried by any state,” he explained.³⁶³ In this manner, if convicted of piracy, the ATS could hypothetically be used by the Japanese whaling industry to convict Sea Shepherd. Yet, for Judge Jones, Sea Shepherd would have to be pirates to invoke the ATS—and, according to him, they were not.³⁶⁴

Judge Kozinski conversely found Sea Shepherd’s protests to be piratic and used the ATS as grounds for the court’s jurisdiction over Sea Shepherd. Remarkably, Judge Kozinski hardly addressed ATS in his opinion piece. This, despite that Judge Jones’ previous discussion of ATS accounted for over half of his forty-four-page assessment of the ruling, and that the ATS had been cast into the public limelight with an impending Supreme Court decision.³⁶⁵ Despite this

brief mention, however, he would use the ATS as further grounds for issuing an injunction against Sea Shepherd on the basis of piracy.³⁶⁶ In just a few words, during the introduction, Judge Kozinski gave context for the appeal by mentioning that the Japanese whaling industry had “sued under the Alien Tort Statute” and were denied both the “request for a preliminary injunction” and claims of Sea Shepherd’s “piracy.”³⁶⁷

As an aside, Judge Kozinski’s aversion from discussing ATS is even more peculiar because at the time the ATS had been cast into the public spotlight. Less than two months after Judge Kozinski’s initial decision, the U.S. Supreme Court, led by Chief Justice Roberts, changed the modern interpretation of the ATS. The change significantly limited the viability of ATS claims for offenses (specifically human rights offenses) that did not occur on American soil. In this manner the ATS had now begun to protect transnational corporate interests. As Peter Weiss of *The Guardian* asserted, the Supreme Court ruling had allowed corporations who are legally treated as “persons” to avoid “being held to account for human rights violations.”³⁶⁸ In other words, through this verdict, the Supreme Court’s decision expanded the corporate protective rights of personhood at the cost of the actual people who protest their actions. Although the decision incited moral outrage amongst human rights activists, legally speaking, it also was consistent with Judge Jones’ decisions to dismiss the use of ATS from his courtroom.³⁶⁹ Yet, in their appeal to the Supreme Court, Sea Shepherd decided to use this turn of events to their advantage.

In their appeal, Sea Shepherd argued that a court that refuses to meddle in transnational corporate interests on foreign soil should also avoid regulating their own international conservationist efforts. Thus, in light of the Supreme Court’s recent decision, the ATS that was originally used to prosecute their protests could now be used in their appeal. In this manner, Sea

Shepherd wanted the Supreme Court's new interpretation of the ATS to place them outside the jurisdiction of the U.S. courtroom and argued that an interpretation of the ATS that protected corporations from prosecution should also equitably protect its protesters. Likewise, Sea Shepherd had high hopes for a successful appeal because of their case's potential influence on the future social protest. As explained by Clare Davis, a partner at the law firm that represented Sea Shepherd, "[the appeal] raises important questions about the power of the U.S. courts to regulate conduct occurring in other parts of the globe."³⁷⁰ The Supreme Court refused to hear the case.³⁷¹

Understandably, Sea Shepherd was dismayed by the Supreme Court's refusal to hear their case. "The Alien Tort Statute is meant to apply in a very narrow set of circumstances, which do not include environmental activism," remarked Davis. "This decision authorizes U.S. courts to invent new international law and apply it to the activity of all U.S. businesses abroad. It sets a welcome mat in front of the U.S. courts for any plaintiffs' lawyer or foreign actor wishing to attack a U.S. business, based on grudges arising anywhere across the globe." In other words, she explained emphatically, "The fact that this appellate court ruling will stand not only affects Sea Shepherd, but also sets a dangerous precedent for any U.S. business that operates internationally."³⁷² In light of this failure to gain a hearing with the appellate court, Sea Shepherd decided to settle with the Japanese whalers and moved on.³⁷³

For Fraser, publics must be included on an even legal playing field in order to enact the laws needed for social legitimacy and thereby social change.³⁷⁴ Despite the changes in contemporary interpretation of ATS, Sea Shepherd's penalty for their injunction was upheld without recourse for an appeal. Thus, it became apparent that the activists' efficacious protests would in no way be legitimized by the American judicial system. According to Fraser, a

politically efficacious public should move to the realm of legitimacy by bringing binding laws to fruition, as they reign in “private powers” and organize “common life” in accord with the wishes of the democratic masses.³⁷⁵ For Sea Shepherd, the literal “common life” that is shared by protecting the ocean’s resources, even when privatized, seemingly takes a backseat to the interests of aggregate corporate power. Through the courtroom, the delegitimizing of Sea Shepherd’s protests moves beyond the implications of their superimposed pirate label and becomes further manifest by both their punishment and expulsion from the courts. The now privatized intentions of Sea Shepherd never stood a chance against the privatized intentions of corporate interests—and Sea Shepherd’s legitimacy as a protesting public was cast by the wayside.

Conclusion

At the heart of Sea Shepherd’s legal disputes is a debate about the legitimacy of contemporary social protest, the symbolic and criminal dimensions of modern day piracy, and the regulatory power of the nation state. These disputes focus upon legal definitions of protest violence, privatized goals, and the jurisdiction of state power. Initially, with Judge Jones presiding over their case, Sea Shepherd asserted that their protests were non-violent and that any protest actions that could have been construed as criminal piracy were in fact vigilante-type protests, which were necessary in lieu of the state’s failure to regulate environmental corporate destruction. Correspondingly, Judge Kozinski’s overturned Judge Jones’ decision and stressed a contrasting interpretation of piracy as it related to both their protests and the power of the regulatory state. This decision stood in stark contrast to Sea Shepherd’s assertion that their protests against the Japanese whaling industry expressed a sense of activist vigilantism that was necessary in lieu of the regulatory state’s failure to protect an internationally recognized

Antarctic sanctuary. Judge Kozinski argued that they were guilty of piracy due to the intent of violence within their protests and the perception of commandeering state power for privatized goals. Finally, when Sea Shepherd sought to appeal Judge Kozinski's decision to the Supreme Court, they returned to an earlier argument about the ATS, which the Japanese whaling industry had initially used with Judge Jones in order to procure an injunction.

Interestingly, despite Sea Shepherd's legal failures, all hope for the future of social protest has not been lost and Sea Shepherd's outspoken voice of resistance has endured. Although the courtroom constricted Sea Shepherd's protests, the activists were able to continue by generating other avenues for resistance by producing positive publicity. This is particularly evidenced by a rapid influx in donations and "legions of new volunteers." As Katy Enders of *The Guardian* affirms,

Despite all [of their legal troubles], Sea Shepherd is having a banner year worldwide. The organization experienced record fundraising and announced in January that it will spend a \$12m award from a Dutch national charity on a new custom-built, super fast 'dream ship.' In January, the North American branch also purchased two decommissioned Coast Guard Cutters, and *Whale Wars*, the Animal Planet TV series that made Sea Shepherd a household name, is slated to continue filming with Sea Shepherd Australia.³⁷⁶

Moreover, as Sea Shepherd expands their activist resources, their proclivity for "the camera" has not been entirely destroyed. With a three-part installment of season seven, Discovery is again investing into the *Whale Wars* series. Albeit, with their recent growth and the news-media attention gained through their legal struggles, Sea Shepherd has now

demonstrated that a relationship with Discovery may no longer be crucial for keeping their protests in the public limelight.

Perhaps the reason that Sea Shepherd's reliance on Discovery may no longer be essential to their protests is because Sea Shepherd has begun to gain state-sanctioned legitimacy in other nation-states. Sea Shepherd has drastically expanded their agenda to include conservation efforts beyond the Antarctic seas, but this time, instead of combating the jurisprudential power of the state, Sea Shepherd has learned to work with state powers in order to expand their reach and political legitimacy. "All the assaults on the Sea Shepherd US entity have certainly helped us grow in other countries," asserted Sea Shepherd's new Global CEO Alex Cornelissen in the aftermath of their charges of piracy.³⁷⁷ For instance, in order to protect the marine life surrounding the Galapagos Islands, Sea Shepherd is now working with the Guatemalan government to help keep out illegal fishers and poachers.³⁷⁸ Their cooperation with Guatemala has also raised questions as to whether they will work with other governments in Central America. Their new office in Costa Rica (the very place where some of Paul Watson's most notable extradition issues began) supports these increasing ties.³⁷⁹ Sea Shepherd has also been spending considerable time on illegal fishing campaigns off the coast of West Africa, where "as much as 40% of fishing is conducted illegally."³⁸⁰

These vigilante-esque conservationist efforts off the coast of West Africa came to fruition in April of 2015, when Sea Shepherd tracked an Interpol-wanted vessel for months off the coast of Sao Tome in the Gulf of Guinea.³⁸¹ In an interesting turn from their anti-state beginnings, Sea Shepherd worked with a local West African government while also generating positive publicity for a global audience. When Raffi Khatchadourian wrote his award-winning 2007 *New Yorker* piece about Sea Shepherd's early campaigns against the Japanese, he described a scene where

the previously mentioned *Nission Maru* (a regular target of Sea Shepherd's protests) actually saved two Sea Shepherd activists from an icy death at sea, whom had been abandoned by Paul Watson in the midst of the protests.³⁸² While the narrative of Sea Shepherd's adversaries saving activist lives painted the conservationist protestors in an unbecoming light, nearly a decade later, Sea Shepherd seemingly flipped this script by working with Interpol to save the poachers in Sao Tome. The poachers sank their ship off the West African coast in a last-ditch effort to avoid arrest and issued a distress call, to which Sea Shepherd deftly responded. "[T]hey said the ship was sinking and they were abandoning the Thunder," said Sea Shepherd spokesman Adam Burling. "We invited the crew—40 of them—on board, had a medical officer check them over, provided them with food and water." The rescue went off without any semblance of violence, despite the tension between the two crews. "We worried what they might be like to our crew, whether they might be hostile or violent to us," explained Burling, but most of them were "very relieved" to be rescued. "Perhaps they would have preferred to have been rescued by someone else, but given the location there was really no other option," he added. Shortly thereafter, Sea Shepherd, while working directly with the West African state powers, handed over the crew to the Sao Tome Coast Guard.³⁸³

Although Sea Shepherd's legal defenses ultimately failed, their brand of conservationism wages forth. Amidst delegitimizing prosecution by the state, Sea Shepherd's ability to survive offers evidence to the necessity of highly publicized voice of resistance in our present moment of advanced capitalism—even if the road to state-sanctioned legitimacy is a long one, full of seemingly insurmountable roadblocks.

In conclusion, the move to legally label Sea Shepherd as pirates shifted their protests from the public arena to the private arena and delegitimized their protests in the eyes of the state.

Yet, Sea Shepherd shows us that there may indeed be hope for the future of protest politics in neoliberal capitalism. The American courtroom ultimately condemned sea Shepherd as pirates, but Sea Shepherd's highly publicized legal issues kept their public presence strong, even despite their tepid relationship with Discovery. Therefore, as Sea Shepherd continues to operate as piratic protesters, their public embrace may offer prospects for the future of protest amidst prosecution. Paul Watson would likely agree:

When people call us pirates . . . I really don't mind it. If you go back to the 1600s and look at the situation then, when piracy was running rampant in the Caribbean, well it wasn't that British or Spanish governments that did anything to bring piracy under control...So who stopped the pirates in the Caribbean? Henry Morgan—a pirate!³⁸⁴

For protest to succeed amidst corporate prosecution and neoliberal state power, perhaps we should listen to oft-polarizing rhetoric of Watson. The future of protest may very well *necessitate* these protesting pirates, as they seek to legitimize themselves as a public voice of conservationist resistance in the transnational waters of neoliberal polity.

Conclusion

When Sea Shepherd locked arms with Discovery they stepped outside the tradition of protest rhetoric and did the unthinkable; instead of opposing multi-national capital, they joined forces. Likewise, Sea Shepherd teaches us much about the timeworn category of protest rhetoric. Under the conditions of neoliberal capitalism their protests suggest a new category for understanding social protest—neoliberal protest rhetoric. While this is in no way a finalized category, this dissertation has been dedicated to introducing neoliberal protest rhetoric by marking several of its distinguishing factors and arguing for its relevance in the twenty-first century. In this manner I have focused on three key concepts—*celebrity*, *anti-Japanese propaganda*, and *piracy*—in order to illuminate key shifts in the practices of protest, which can be parsed through the neoliberal topoi of rugged individualism, corporate privilege, and restructured state power.

This dissertation has therefore analyzed Sea Shepherd's activism as a synechdochical example of the marriage of protest rhetoric and neoliberal capitalism. As Sea Shepherd's discourse continues to engage and exploit the conditions of neoliberal capitalism, this dissertation has endeavored to uphold critical rhetoric's task of unmasking discourses of material subjectivity and power, while also seeking to map the paradigms that are inherent in protest rhetoric.³⁸⁵

Implications

One fine day, a few months before I left Lawrence, Kansas, I strolled down the sidewalks of Mass Street for some last-minute memento shopping. After soaking up the sunny ambiance of the sunflower state, I entered my favorite print store. The store was nearly empty, so the owner, herself a PhD Candidate in art history, and I conversed for a while. As the conversation moved to

my (and many a doctoral candidate's) least favorite topic—the dissertation—we discussed two important issues: my personal opinion concerning the corporatization of resistance and the tumultuous temporality of my artifact.

The owner's first question about my opinion in regards to the commodification of resistance was typical of nearly every person I have ever talked to concerning my dissertation project. In fact, it seems that the only people who do not ask me for a value-laden statement do so because they start with the assumption that my project offers a scathing a critique of this type of social protest; conversations in this vein are often affirmed by a glib mention of how much they "hate that bullshit." Thus, I was not surprised when she asked, "What do *you* think about the commodification of resistance?" I replied in turn with my pre-formulated and generic answer: "It is complicated, so I try not to form one." I then echoed the sentiments of my advisor, whom, when I initially talked to him about this proposal remarked, "Simply stating that the corporatization of resistance is bad is thoroughly uninteresting." I could not agree more. In fact, with Sea Shepherd, there is a palpable power in their ability to commoditize social protest in the pursuit of shockingly efficacious resistance. Indeed, the Sea Shepherd Conservation Society stands as a quintessential form of neoliberal resistance as their social protests actively circulate within the frameworks of entrepreneurial individualism, transnational racialization, and restructured state power. Thus, I will stick to my guns; I am not sure if Sea Shepherd's protests in themselves are good or bad for social protest. Indeed, they reflect the all-too-often quoted sentiments of Kenneth Burke, drawing forth that ever rhetorically ambiguous moral stance rooted in the "both/and." In this sense, I can only say that Sea Shepherd's protests reflect a widespread difference in the way contemporary activists are *doing* protest. Likewise, those differences are large enough to merit investigation into what it means to produce a rhetoric of

resistance in a neoliberal age. Therefore, as this project used Sea Shepherd's rhetoric to illustrate contemporary trends in the discourses of neoliberal resistance, it avoided making a definite pronouncement in regards to whether or not Sea Shepherd's protests are *better* or *worse* than those that came before them—even if Sea Shepherd's protests may tread through a mine-field of issues in the moral high ground of their activism.

While I may strive to avoid casting value judgments on Sea Shepherd's rhetoric of social protest, I must note that I do not pretend to have an empirically objective stance on their protests. I like whales. I don't like racists. I am a conservationist. And, within the domain of neoliberal capitalism, I'm pretty sure that neither the jurisprudential proceedings of the regulatory state, nor the privatized interests of corporate conglomerates, have the best interests of activists in mind. Yet, despite my own subjective inklings, throughout this dissertation I endeavored to echo the sentiments of David Zarefsky, who once argued that rhetorical criticism is a valid epistemological stance because it is reliable, flexible, and humane:

It is reliable in that conclusions are achieved through a process of testing claims that can be replicated by others. It is flexible in that conclusions are always provisional, never beyond the realm of reexamination as anomalies develop or conditions change. And it is humane in that it engages higher critical faculties rather than only instinct or desire.³⁸⁶

I believe that, in an era marked by neoliberal capitalism, Paul Watson's ever-burgeoning celebrity, *Whale Wars*' viewer-driven propaganda, and Sea Shepherd's struggles with state power, evidence a reliable arguments about Sea Shepherd's struggles for success—all of which have occurred, thus far, via a corporatized relationship with Discovery Inc. In this manner, this

dissertation has sought to scrutinize its claims, within the provisions of neoliberal capitalism, through the best of my own critical faculties, while avoiding casting judgments on the complicated wiles of neoliberal resistance.

After quickly answering the exhortation for me to opine on the corporatized resistance of Sea Shepherd—via a dismissive “I’m not sure, it’s complicated”—the print store owner followed up with another question. She inquisitively asked, “What’s it like trying to hit a moving target?” The question stunned me a bit and left me far less cocksure about my supposed area of expertise. I had never thought about that question in this way. (Albeit, after considering some of the thoughtful responses to my dissertation proposal, I likely should have). After working through (or, better yet, struggling with) my dissertation over the past few years, I dearly wish I had wrestled more with this question during the beginning stages of my dissertation project. New news articles are produced daily as Paul Watson and his Sea Shepherd band of activists remain in the spotlight. However, after grappling with the question, I am reminded of Karlyn Kohrs Campbell’s iconic essay on *ephemeral* and *enduring* rhetoric; in this essay she posited that rhetoricians are left with a dilemma, caught between “social” and “professional” criticism.

According to Campbell, in social criticism, which carries the burden of dealing with ephemeral texts, the rhetorician tackles the important task of examining “mass media” in order to “raise issues and encourage public discussion.”³⁸⁷ Accordingly, she defines social criticism as criticism that evaluates both “the ways in which issues are formulated and policies justified” and “the effects of both on society at a particular historical movement.”³⁸⁸ When viewing Sea Shepherd’s protest rhetoric, they no doubt produce a number of ephemeral texts as they formulate and justify their conservationism, amidst the vapid anti-environmental interests of transnational corporate power, while taking on a whaling conglomerate that is driven by

corporate interests (but is also backed with state power). However, as Campbell articulates, ephemeral texts of social criticism posit a problem for the rhetorician: “Such social criticism is absolutely vital,” she states, “but as social criticism, it will not be enduring, [because] its importance and its functions are immediate and ephemeral.”³⁸⁹ In this manner, I had a potential problem: Sea Shepherd is a moving target, they are protesting in the *now*, and writing an ephemeral dissertation is indeed worrisome. Luckily for this project, Campbell offers a solution—engage the ephemeral texts of social criticism within the task of “professional” rhetorical criticism.

Campbell states that “academic” or “professional” criticism can indeed make an “enduring contribution to the discipline, whether or not the acts it examines are trivial ephemera or enduring masterpieces.”³⁹⁰ For Campbell, professional criticism must make “contributions to rhetorical *theory*.”³⁹¹ That is exactly what this dissertation does. It sets its proverbial sights on a moving text, and in the process, offers a critique that contributes to Rhetorical Studies’ understandings of social protest in this contemporary moment, which can be viewed within the frameworks of neoliberal capitalism—as neoliberal protest rhetoric.

In the long history of protest rhetoric scholarship, Rhetorical Studies has either traditionally focused on free speech issues or relegated acts of corporatized resistance to economic domains.³⁹² However, the ascent of neoliberal protest rhetoric offers a type of protest that finds its roots in historical social protest, but due to its contemporary prevalence, is also linked to this very specific time period of neoliberal capitalism. Likewise, this dissertation has used the protests of Sea Shepherd to illustrate how the relationship between neoliberal capitalism and protest rhetoric struggles and resolves its own exigencies of resistance. In sum, this dissertation aimed to produce an enduring rhetorical critique that examined neoliberal protest

rhetoric as it is fostered by, and formulated from, the ideological topoi and historical contexts of neoliberal capitalism.

Summary

Each dissertation chapter offered a vignette into the theoretically rich realms of both social protest scholarship and neoliberal capitalism. While these chapters are not designed to exhaust the ways in which one might understand social protest in the contextual and theoretical domains of neoliberalism, they offer crucial entry points in which to better understand important possibilities and constrictions of public resistance in a neoliberal era. Although the idealistic principles of neoliberal capitalism have often become, in David Harvey's words, "twisted" in an effort to sustain elite power, its topoi of individualism, corporate privilege, and restructured state power largely remained intact.³⁹³ And, for better or worse, Sea Shepherd's protests occupy space on both the privileged and marginalized sides of the aforementioned topoi.³⁹⁴ Therefore, each chapter is best understood as a way to better understand the possibilities and constraints for social protest in an era marked by neoliberal capitalism.

This dissertation's first vignette, and second chapter, suggested that there has been a palpable shift from the collectivist ideals of twentieth-century protest to a neoliberal version of social protest that holds the cutthroat values of individualistic entrepreneurial success above all else. In order to illustrate this shift, I turned to one of the preeminent activist celebrities of the twenty-first century, Paul Watson. While one might disavow the narrative of a notable twentieth-century activist celebrity, such as Martin Luther King Jr., as a token narrative of individualistic celebrity success, one cannot deny that his rhetoric was indeed one of *communitas*.³⁹⁵ Therefore, by drawing upon the rhetoric of radical environmentalist Paul Watson, this chapter argued that Watson's celebrity offers a keen instance of social protest that, under the conditions of twenty-

first century neoliberal capitalism, moves contemporary protest away from the efforts of engaged activist collectives. Instead, Watson's (often glamorized) at-all-costs persona of the neoliberal entrepreneurial individualist abjures the grassroots efforts—and even the livelihood—of his collective supporters. In other words, although Watson's corporate alliance with a Fortune 100 media conglomerate allowed him to leverage his stardom into incredibly efficacious conservationist success, all too regularly this success came at the cost of his activist supporters. For this reason, I contend that Watson stands as a striking example of how the collusion of social protest, individualized activist celebrity stardom, and transnational corporations problematizes notions of communal protest that were once held dear by the activist celebrities of yesteryear. Ultimately, this shift in social protest champions a type of radical celebrity individualism where communal protest is cast aside in order to facilitate a glamorized *activist celebrity* self that is defined in non-relational, egocentric, and possessive terms.

This dissertation's second vignette, and third chapter, addressed of issues of neoliberal racialization through an investigation into the series that catapulted Sea Shepherd into the global limelight, *Whale Wars*. This chapter showed how, in an increasingly globalized world, rhetorics of neoliberal racialization are transposed into issues of culture. Likewise, as *Whale Wars* continues to articulate a conservationist discourse that is eerily similar to WWII anti-Japanese propaganda, they illustrate how acts of cultural violence can be easily framed as acts of multicultural benevolence. In this manner, Sea Shepherd's racialization enacts a sense of privilege that is made especially available through the corporatized production of *Whale Wars*.

The third vignette, and fourth chapter of this dissertation, addressed the constitution and legitimization of publics in the face of neoliberal state power. While Sea Shepherd has used its corporate connections to garner an incredibly efficacious sense of publicity, they have struggled

to legitimize themselves in the eyes of the regulatory state. This struggle is made especially apparent through their recent legal engagements within the American courtroom. Thus, this chapter entered a legal debate between Sea Shepherd and two judges—Judge Richard Jones and Judge Alex Kozinski—that centered upon issues of piracy, privatization, and the domain of regulatory state power. The juxtaposition between the two judges’ readings illustrated the extent to which protesting publics can be rhetorically privatized by regulatory state power. The outcome of these legal debates allowed the courtroom to rhetorically constitute Sea Shepherd as violent pirates with privatized interests, which served to delegitimize the conservationists as a protesting public in the eyes of the state. However, despite their prejudicial relationship with an American courtroom that oftentimes privileges aggregate corporate power, Sea Shepherd’s efficacious efforts for publicity have not waned. They have begun to work with non-American state bodies and gain legitimate political footholds within the polity of regulatory state power. Therefore, as Sea Shepherd struggles to legitimate itself, they must simultaneously garner publicity, while also attaining a political foothold in the domain of state-sanctioned legitimacy.

In sum, the protests of Sea Shepherd offer a tangible text for which to begin a story about the twenty-first century marriage of protest rhetoric to neoliberal capitalism. Likewise, by interrogating notions of *celebrity*, *propaganda*, and *pirates*, this dissertation offers inroads for understanding the distinguishing factors that mark that inextricable partnership between resistance and capitalism.

Future Investigation

While Sea Shepherd produces a number of ephemeral texts, their protests engage within a long history of social protest. Whether it concerns changes in the nature of grassroots support, conservationist image events, or the state-sanctioned legitimacy of publics, this dissertation used

Sea Shepherd to repeatedly enter the conversational contexts of social protest in a neoliberal era. Therefore, future directions for this research should seek to further establish contemporary understandings of social protest within neoliberal capitalism by investigating other avenues of corporatized resistance.

In order for the Rhetorical Studies discipline to better understand notions of corporatized resistance as a mode of neoliberal social protest, it must put other organizations of corporatized resistance under its lens, even if the texts are rather ephemeral. For instance, further studies on the [RED] campaign that is so heavily championed by rock-star Bono could provide inroads to better understanding the role of the *celebrity activist* as it is juxtaposed to the *activist celebrity*. Further studies on consumable media would be helpful as well. The KONY 2012 campaign, for instance, produced a video that shattered *YouTube* viewership records while initiating military help in Uganda from the American state. As this campaign incited plenty of controversy concerning the relationship between social protest, Western state power, and the complicated politics of the African continent, media-driven protest texts like the KONY 2012 campaign could teach us much about both neoliberal racialization and establishing legitimized resistance alongside the neoliberal state. From Always' *Like a Girl* "femvertising" campaign to the for-profit Tom's shoes, there are countless other examples of corporatized social resistance in this contemporary time and place of advanced capitalism. And in order for Rhetorical Studies to better understand neoliberal resistance, future scholarship should interrogate texts like these in order to gain a stronger grasp on neoliberal protest rhetoric.

Concluding the Conclusion

When I first started this project, I was advised to simply “tell a story.” In this manner, this dissertation offered the protests of Sea Shepherd against the Japanese whaling industry as a tangible text from which the story about the twenty-first century marriage of protest rhetoric to neoliberal capitalism could be told. Ultimately, this dissertation offers inroads towards understanding crucial factors that mark an inextricable relationship between protest rhetoric and neoliberal capitalism. Indeed, through these notions, this dissertation offered a story of how the marriage between capitalism and activism produces a neoliberal protest rhetoric that is truly *selling social justice*.

Notes

¹ In 2002 Sea Shepherd's ship, the *Farley Mowat*, began protesting Japanese whaling on the Antarctic coast. They reported minor success with encouraging a single Japanese whaling ship to evacuate the premises in 2006. Yet, it wasn't until 2008, with the inception of the *Steve Irwin* ship, and Animal Planet's production, that Sea Shepherd began to experience consistent impact

² "Japan Ends Antarctic Whaling Season Early," Associated Press,

http://today.msnbc.msn.com/id/41656257/ns/world_news-world_environment/.

³ Andy Dehnart, "Not Their Whale War Anymore: How Animal Planet Was Forced to Step Down," The Wire, <http://www.thewire.com/entertainment/2013/12/not-their-whale-war-anymore-how-animal-planet-was-forced-step-down/356026/>.

⁴ Chief Judge Alex Kozinski, "Appeal from the United States District Court for the Western District of Washington," in *12-35266 D.C. No. 2:11-cv-02043-RAJ*, ed. United States Court of Appeals for the Ninth Circuit (Seattle, WA2012).

⁵ Charles E. Morris III and Stephen H. Browne, *Readings on the Rhetoric of Social Protest*, 3 ed. (State College Strata, 2013). For a list of changes from the previous edition see "New! Readings on the Rhetoric

of Social Protest," Strata, <http://www.stratapub.com/MorrisBrowne3/contents.htm>; *ibid*.

⁶ Most scholars of neoliberal capitalism refer to David Harvey's definition of neoliberalism in his seminal book on neoliberalism, *A Brief History of Neoliberalism*, where he defines neoliberalism as "a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices." 2.

⁷ Jodi Dean, *Democracy and Other Neoliberal Fantasies: Communicative Capitalism and Left Politics* (Durham: Duke University Press, 2009). 52. For a more in depth synopsis of historical neoliberalism see David Harvey, *A Brief History of Neoliberalism* (New York: Oxford University Press, 2005). It should also be noted that critiques of the rugged individualism, unbridled corporate privilege, wanting state regulatory power associated with neoliberal capitalism have been apparent since the Frankfurt school. Marcuse for instance argued that the state merely protects personal freedom property, but does not ensure it, which leaves individualism at the source of freedom. For more, see Herbert Marcuse, “A Study on Authority,” in *From Luther to Popper: Studies in Critical Philosophy* (London: Verso, 1972). 97-99.

⁸ Susan George, “A Short History of Neoliberalism: Twenty Years of Elite Economics Emerging Opportunities for Structural Change,” in *Conference on Economic Sovereignty in a Globalising World* (Bangkok: Global Exchange, 1999).

⁹ Dean, *Democracy and Other Neoliberal Fantasies: Communicative Capitalism and Left Politics*. 52. It should also be noted that the Nobel Prize for Economics is commonly termed the Nobel Memorial Prize in Economics for it was not a category established by Alfred Nobel and has been a point of highly contentious debate, lead especially by his great grandson Peter Nobel, who called the prize a misuse of their family name as “a PR coup by economists to improve their reputation.” Paul Rapacioli, “Nobel Descendant Slams Economics Prize,” *The Local*, <http://www.thelocal.se/20120102/2173>.

¹⁰ Dean, *Democracy and Other Neoliberal Fantasies: Communicative Capitalism and Left Politics*. 52-54.

¹¹ *Ibid.* 52-54.

¹² *Ibid.* 49-54.

¹³ Harvey explains that, “We can, therefore, interpret neoliberalization either as a *utopian* project to realize a theoretical design for the reorganization of international capitalism or as a *political* project to re-establish the conditions for capital accumulation and to restore the power of economic elites.” Harvey, *A Brief History of Neoliberalism*. 19.

¹⁴ The “bailout” or Emergency Economic Stabilization Act made Harvey seem prophetic, who wrote in 2005, that “when neoliberal principles clash with the need to restore or sustain elite power, then the principles are either abandoned or become so twisted as to be unrecognizable.” Ibid. 19.

¹⁵ For an interesting exploration and synopsis of Bank of America and the “bailout” of 2008, see Matt Taibbi’s articles: Matt Taibbi, “Secrets and Lies of the Bailout,” Rolling Stone, <http://www.rollingstone.com/politics/news/secret-and-lies-of-the-bailout-20130104>; “Bank of America: Too Crooked to Fail,” Rolling Stone, <http://www.rollingstone.com/politics/news/bank-of-america-too-crooked-to-fail-20120314>.

¹⁶ Harvey asserts that a sense of neoliberal individualism as “characterized by strong private property rights,” corporate deregulation through “free markets” and “free trade,” and a state whose primary role is to support “a framework appropriate to such practices” make up the key components of neoliberalism. Additionally, Michel Foucault explains that neoliberalism differs from classical conceptions of liberalism due to the relationship between “the state and the economy.” “The neo-liberal conception inverts the early liberal model,” he explains, “which rested on the historical experience of an overly powerful absolute state. Unlike the state in the classical liberal notion of rationality, for the neo-liberals the state does not define and monitor market freedom, for the market is itself the organizing and regulative principle underlying the state. From this angle, it is more the case of the state being controlled by the market than of the

market being supervised by the state. Neo-liberalism removes the limiting, external principle and puts a regulatory and inner principle in its place: It is the market form which serves as the organizational principle for the state and society.” Harvey, *A Brief History of Neoliberalism*. 2.

19. Thomas Lemke, “‘The Birth of Bio-Politics’: Michel Foucault’s Lecture at the College De France on Neo-Liberal Governmentality,” *Economy and Society* 30, no. 2 (2001). 10.

¹⁷ “Jay-Z ‘Occupy All Streets’ Tees after Outcry Back on Sale,” The Huffington Post, http://www.huffingtonpost.com/2011/11/14/jay-z-pulls-occupy-tees_n_1092648.html.

¹⁸ Peter Dauvergne and Genevieve LeBaron, *Protest Inc.: The Corporatization of Activism* (Cambridge: Wiley, 2014). 1.

¹⁹ The terms have nuanced disciplinary differences. For instance, the term *political consumerism* is associated with Political Science. Public Relations scholars tend to be invested in studies on *cause marketing*. Organizational Communication scholars avail themselves in studies in *corporate social resistance*, and Critical and Cultural Studies often use the term *commodity activism* in their scholarship. For a critique of political consumerism as *networked consumerism*, see Chapter 4 of *The Evolving Citizen*. Jay Childers, “Removed Volunteers,” in *The Evolving Citizen: American Youth and the Changing Norms of Democratic Engagement* (University Park: The Pennsylvania State University, 2012). Ultimately, as a sweeping definition, I prefer Political Science guru Michelle Micheletti’s exploration of political consumerism, where she defines these acts as the use of the “market” as an “arena” for “political struggle.” See Michelle Micheletti, *Political Virtue and Shopping: Individuals, Consumerism, and Collective Action* (New York: Palgrave Macmillan, 2003); Michelle Micheletti and D. Stolle, “Fashioning Social Justice Through Political Consumerism, Capitalism, and the Internet,” *Cultural Studies* 22, no. 5 (2008). 1-4.

²⁰ Lawrence B. Glickman, *Buying Power: A History of Consumer Activism in America* (Chicago: University of Chicago, 2009); Micheletti, *Political Virtue and Shopping: Individuals, Consumerism, and Collective Action*.

²¹ The term boycott traces its etymological roots to Ireland in 1828 as a protest by Irish farm laborers who mobilized against their landlord Captain Charles Cunningham Boycott in order to protest unjust treatment and policies. An American journalist sympathizer who was an Irish priest took note of the event and published a story utilizing the name as a verb to describe their actions. Although boycotting was oriented internally toward the producer, as the industrial revolution raged on and labor issues continued, the concept of boycotting changed. It eventually became similar to what is more commonly known as a strike and the concept of boycotting become consumer oriented: referring to attempts “by one or more parties to achieve certain objectives by urging individual consumers to refrain from making selected purchases in the marketplace.” Examples of boycotts continued throughout the 19th-21st centuries in various international political and corporate landscapes and there are many well familiar examples of boycotting: The colonial United States boycotted England during their struggle for independence in the revolutionary war. Housewives in the 1920s through the 1940s were notorious for American boycotts concerning union workers. The Montgomery bus boycotts stood as a key component of the civil rights movement. Mahatma Gandhi capitalized off of the notion of Swadeshi in India in another struggle with colonial independence. *Political Virtue and Shopping: Individuals, Consumerism, and Collective Action*. 37-60. Furthermore, the nation-states of Israel, France, and South Africa have also been heavily targeted in boycott campaigns. D. Stolle, M. Hooghe, and Michelle Micheletti, “Politics in the Supermarket: Political

Consumerism as a Form of Political Participation,” *International Political Science Review* 26, no. 3 (2005). 246.

²² Micheletti, *Political Virtue and Shopping: Individuals, Consumerism, and Collective Action*. 50.

²³ Glickman, *Buying Power: A History of Consumer Activism in America*. Micheletti, *Political Virtue and Shopping: Individuals, Consumerism, and Collective Action*.

²⁴ Both Glickman and Micheletti offer a history of commodity activist practices rooted in boycotts and buycotts that include such notable social movements as the American Revolution, the Civil Rights Movement, and Swadeshi in India. For more on the integrated nature of consumer activism and social movements, see Glickman, *Buying Power: A History of Consumer Activism in America*.

²⁵ “Through the neo-liberal renaissance and the crumbling of Marxism (in the west and east), consumer culture was seen in terms of the freedom of the market and therefore as a guarantor of economic progress and individual freedom.” D. Slater, *Consumer Culture and Modernity* (Cambridge: Polity, 1996). 8-11. Additionally, Stolle, Hooghe, and Micheletti argue that there is quantitative survey data that clearly indicates that a strong upswing in acts of political consumerism. Stolle, Hooghe, and Micheletti, “Politics in the Supermarket: Political Consumerism as a Form of Political Participation.” 248.

²⁶ Roopali Mukherjee and Sarah Banet-Weiser, *Commodity Activism: Cultural Resistance in Neoliberal Times*, Critical Cultural Communication (New York: New York University Press, 2012). 2.

²⁷ Stolle, Hooghe, and Micheletti, “Politics in the Supermarket: Political Consumerism as a Form of Political Participation.” 245-247.

²⁸ Dauvergne and LeBaron, *Protest Inc.: The Corporatization of Activism*. 1.

²⁹ *Ibid.* 1-2.

³⁰ Edwin Black, *Rhetorical Criticism: A Study in Method* (Madison: University of Wisconsin, 1978). 18.

³¹ Griffin, according to Morris and Browne, “is widely considered to have pioneered the study of movements from a rhetorical perspective.” Charles E. Morris III and Stephen H. Browne, *Readings on the Rhetoric of Social Protest*, 2 ed. (State College Strata, 2006). 7.

³² Leland M Griffin, “The Rhetoric of Historical Movements,” *Quarterly Journal of Speech* 38, no. 2 (1952). 186.

³³ Edwin Black once listed movement studies—the umbrella concept in which protest rhetoric fits—as one of the “three distinct approaches to rhetorical criticism.” Black, *Rhetorical Criticism: A Study in Method*. 18. For a synopsis on the early debates on defining movement studies see David Zarefsky, “A Skeptical View of Movement Studies,” *Communication Studies* 31, no. 4 (1980).

³⁴ It is Morris and Browne who suggest the categorical approaches to protest rhetoric can be divided up into historical, theoretical, and phenomenological. Morris III and Browne, *Readings on the Rhetoric of Social Protest*; *ibid.* 7.

³⁵ Robert S Cathcart, “New Approaches to the Study of Movements: Defining Movements Rhetorically,” *Western Journal of Communication* 36, no. 2 (1972). 87.

³⁶ Griffin, “The Rhetoric of Historical Movements.” 184-185.

³⁷ Gregg theorized that the primary goal of protest rhetoric was internal rather than external. R.B. Gregg, “The Ego-Function of the Rhetoric of Protest,” *Philosophy & Rhetoric* 4, no. 2 (1971).

³⁸ Zarefsky, “A Skeptical View of Movement Studies.” 245.

³⁹ R.J. Jensen, "Evolving Protest Rhetoric: From the 1960s to the 1990s," *Rhetoric Review* 20 (2001). 34.

⁴⁰ Some scholars, like McGee, question whether or not these categorical distinctions are in fact fruitful. Formerly a staunch advocate of theory based approaches to social movements, in line with Zarefsky, McGee agrees there is a problem with approaching social movements as a categorical theoretical domain and argues that historical context is key to understanding social movements. Yet, he also argues that social movements must be studied beyond the historical context of individual movements. McGee therefore suggests rhetorical social movement scholarship not approach social movements as a type of phenomena, but rather, scholarship should focus on the culturally driven production of rhetorical phenomena that are produced by contextualized social movements. Michael McGee, "Social Movement: Phenomenon or Meaning," in *Readings on the Rhetoric of Social Protest*, ed. Charles E. Morris and Stephen H. Browne (State College: Strata, 2001).

⁴¹ McGee states, "The rhetorical artifacts which warrant claims of 'movement' also give us a concrete object of study, for we can point to changes in patterns of discourse *directly*, in a way conceptually impossible if we conceive of 'movement' as existing apart from consciousness and/or independent of the discourse which communicates consciousness." Ibid. 122.

⁴² For examples see Black, *Rhetorical Criticism: A Study in Method*; Stephen H. Browne, "'The Circle of Our Felicities': Thomas Jefferson's First Inaugural Address and the Rhetoric of Nationhood," *Rhetoric & Public Affairs* 5, no. 3 (2002); Cathcart, "New Approaches to the Study of Movements: Defining Movements Rhetorically.,"; James Francis Darsey, *The Prophetic Tradition and Radical Rhetoric in America* (New York: New York University Press, 1997); Griffin, "The Rhetoric of Historical Movements.,"; "A Dramatistic Theory of the Rhetoric of

Movements,” in *Critical Responses to Kenneth Burke*, ed. Rueckert William (Minneapolis: University of Minnesota, 1969); “On Studying Movements,” *Communication Studies* 31, no. 4 (1980); McGee, “Social Movement: Phenomenon or Meaning.”; Herbert W. Simons and Aram A Aghazarian, *Form, Genre, and the Study of Political Discourse* (Columbia: University of South Carolina, 1986); Cary R Voss and Robert C Rowland, “Pre-Inception Rhetoric in the Creation of a Social Movement: The Case of Frances Wright,” *Communication Studies* 51, no. 1 (2000); Susan Zaeske, “Signatures of Citizenship: The Rhetoric of Women’s Antislavery Petitions,” *Quarterly Journal of Speech* 88, no. 2 (2002); Zarefsky, “A Skeptical View of Movement Studies.”

⁴³ Glickman, *Buying Power: A History of Consumer Activism in America*.

⁴⁴ Pezzullo specifically makes reference to communication and cultural studies scholarship, but envelops rhetoric as her research in support of this underdevelopment and foci are distinctly rhetorical. “Despite their popularity and significance, there remains a paucity of communication and cultural studies scholarship on boycotts and, to my knowledge, none on buycotts,” she iterates. Phaedra Pezzullo, “Contextualizing Boycotts and Buycotts: The Impure Politics of Consumer-Based Advocacy in an Age of Global Ecological Crises,” *Communication and Critical/Cultural Studies* 8, no. 2 (2011). 125.

⁴⁵ Griffin, “On Studying Movements.” 225.

⁴⁶ Donald McCloskey, “The Rhetoric of Economics,” *American Economic Association* 21, no. 2 (2013).

⁴⁷ Harnett, Jones, and Mukherjee are among the few scholars who interrogate the intersection between protest rhetoric and neoliberalism. Although these scholars address the impact of neoliberalism’s totalizing and marginalizing marketplace value system on both individualism and

the regulatory state, none address the modes of corporate production and consumption that fuel neoliberal capitalism. Moreover, these studies are tangential to protest rhetoric scholarship, which means neither draws heavily upon, nor situates itself within, the deep tradition of protest rhetoric scholarship. For instance, addressing political dynamics between the United States and China, Hartnett suggests that debates over universal issues of human rights take a back seat to the marketplace values of neoliberal capitalism. In order to do this he maps how China resolves tensions between state regulation and market freedom by marshaling a “rhetoric of globalization to enter new markets” while simultaneously deploying “a rhetoric of nationalism to block foreign influence.” Stephen J. Hartnett, “To “Dance with Lost Souls”: Liu Xiaobo, Charter 08, and the Contested Rhetorics of Democracy and Human Rights in China,” *Rhetoric & Public Affairs* 16, no. 2 (2013). 223. Additionally, Jones and Mukherjee draw loosely from critical rhetoric scholarship as they use Jodi Melamed’s concept of *neoliberal multiculturalism* to show how discourses of affirmative action invoke a neoliberal myth of “free, entrepreneurial individuals against a meddling, inefficient, authoritarian state.” (For more on Melamed’s conceptualization of neoliberal multiculturalism see Chapter 3 of this dissertation). Furthermore, while Mukherjee is a seminal scholar on commodity activism, this essay is primarily concerned with neoliberal racialization, and does not address modes of consumption. Bradley Jones and Roopali Mukherjee, “From California to Michigan: Race, Rationality, and Neoliberal Governmentality,” *Communication and Critical/Cultural Studies* 7, no. 4 (2010). 401-404.

⁴⁸ Mukherjee and Banet-Weiser, *Commodity Activism: Cultural Resistance in Neoliberal Times*. 13. For more on communicative labor practices in neoliberal capitalism, see Dean, *Democracy and Other Neoliberal Fantasies: Communicative Capitalism and Left Politics*. 49-51.

⁴⁹ Micheletti and Stolle, “Fashioning Social Justice Thorough Political Consumerism, Capitalism, and the Internet.” 753.

⁵⁰ Historically, Banet-Weiser argues, the move to these immaterial forms of labor production via entrepreneurial individualism came into view through shifts in corporate marketing practices post the 1970s. Specifically, she points to three stages in political consumerism, each marked by shifting, yet overlapping, historical corporate marketing tactics in the 20th century: The first stage is that of Fordist capitalism. She identifies this stage as marked by mass marketing to consumers based on class or undifferentiated marketing practices. In the second stage the mass marketing of Fordist capitalism eventually moved towards niche marketing and targeted culturally specific identities. As marketing evolved, she states, “The advertising industry saw cultural and individual difference as an opportunity and reimagined its practices to capture an increasingly fragmented audience.” Finally, she moves to the individuated marketing practices of neoliberalism found in the late 20th and early 21st century. Banet-Weiser argues that immaterial labor practices, such as participation in branding, blur the lines of who is the producer and the consumer. “This newly imagined entrepreneur is not defined in the traditional sense of being a business owner or investor, but rather is an entrepreneur of the *self*, a category that has exclusive hints to it but also gains traction as something that ostensibly can apply to anyone.” Sarah Banet-Weiser, *Authentic Tm: Politics and Ambivalence in a Brand Culture*, Critical Cultural Communication (New York, NY: New York University Press, 2012). 16-37.

⁵¹ Wendy Brown, “Neoliberalism and the End of Liberal Democracy,” in *Edgework: Critical Essays on Knowledge and Politics*, ed. Wendy Brown (New Jersey: Princeton, 2005). 38.

⁵² Many scholars contend that a deregulated state has brought about complex networks of production that oftentimes do not operate under the regulation of state. Despite their increasing

notoriety, boycotting and buycotting have proven to be a far from perfect activist practice. The problem with boycotts, they argue, is that they sometimes encourage corporations to move operations, resulting in layoffs, rather than dealing with social justice issues on the spot. Another issue is that, boycotts can be difficult to manage. For instance, Micheletti and Stolle point out that the Walt Disney Company must manage boycotts on multiple fronts as they deal with issues of gay rights, Christian family values, Fair-trade, and ethnic and other minority groups. Micheletti and Stolle, “Fashioning Social Justice Thorough Political Consumerism, Capitalism, and the Internet.” 751-753. Micheletti, *Political Virtue and Shopping: Individuals, Consumerism, and Collective Action*.

⁵³ Pezzullo argues that in contemporary practice scholarship on the rhetorical value of commodity activism (specifically through buycotts) is often neglected due to the difficulties of creating quantifiable indicators of its success. For this reason, she suggests that we look at the culturally driven rhetorical value of declaring victory when success occurs, rather than attempting to quantify the fiscal victories of commodity activism. Pezzullo, “Contextualizing Boycotts and Buycotts: The Impure Politics of Consumer-Based Advocacy in an Age of Global Ecological Crises.” 18.

⁵⁴ James Jasinski, “Instrumentalism, Contextualism, and Interpretation in Rhetorical Criticism,” in *Rhetorical Hermeneutics: Invention and Interpretation in the Age of Science*, ed. Alan Gross and William Keith (Albany: State University of New York, 1997). 197.

⁵⁵ Although he was formerly a staunch advocate of theoretically based approaches to social movements, McGee agreed—in line with Zarefsky—that there was a problem with approaching social movements within a singular categorized theoretical domain. McGee stated, “The rhetorical artifacts which warrant claims of ‘movement’ also give us a concrete object of study,

for we can point to changes in patterns of discourse *directly*, in a way conceptually impossible if we conceive of ‘movement’ as existing apart from consciousness and/or independent of the discourse which communicates consciousness.” McGee, “Social Movement: Phenomenon or Meaning.” 122.

⁵⁶ Jasinski, “Instrumentalism, Contextualism, and Interpretation in Rhetorical Criticism.” 197.

⁵⁷ Robert C Rowland and John Jones, “Entelechial and Reformatory Symbolic Trajectories in Contemporary Conservatism: A Case Study of Reagan and Buchanan in Houston and Beyond,” *Rhetoric & Public Affairs* 4, no. 1 (2001). 58.

⁵⁸ Jasinski, “Instrumentalism, Contextualism, and Interpretation in Rhetorical Criticism.” 213.

For instance, much like Jasinski’s explication of the rhetoric of Henry Clay—who, like “most Americans” remained “captive to the patterns of thought dominating his age”—this dissertation interrogates neoliberal patterns of thought that enable and constrain Sea Shepherd’s protests.

“The Forms and Limits of Prudence in Henry Clay’s (1850) Defense of the Compromise Measures,” *Quarterly Journal of Speech* 81 (1995). 271

⁵⁹ Dana Cloud, “The Materiality of Discourse as Oxymoron: A Challenge to Critical Rhetoric,” *Western Journal of Communication* 58 (1994). 142.

⁶⁰ Cloud cautioned against of an overly relativistic view of material rhetoric—where all relations, “economic, political, or ideological,” become merely symbolic in nature, ignoring very real systemic issues of marginalization. *Ibid.* 142.

⁶¹ *Ibid.* 159.

⁶² Building from Foucault, he argued, “In this way rhetoric is not epiphenomenal to a governing apparatus, but absolutely crucial to its organization since the ability to make visible a population in order that it might calibrate its own behavior is dependent on how rhetoric contributes to

panopticism as a technology of power.” Ronald W. Greene, “Another Materialist Rhetoric,” *Critical Studies in Media Communication* 15, no. 1 (2009). 31.

⁶³ Ibid. 36.

⁶⁴ Ideologically driven analyses of protest rhetoric, Greene asserted, have situated rhetorical texts as a type of “epiphenomenal” discourse that either unmask persuasive “domination,” or “emphasizes rhetoric as a form of identification” for the representation of subjective oppression.” This polemic between liberation and identification in protest rhetoric is problematic, argued Green, because it ignores the fact that rhetoric construes conditions for hegemonic power inasmuch as it strives to expose them. In this vein, I seek to map out how commodity activism works symbiotically within the discourses of neoliberal capitalism. In Greene’s words, I examine how neoliberalism to distributes “discourses, institutions, and populations onto a field of action,” as “a governing apparatus” that makes “judgments about what it should govern, how it should govern,” and offers “mechanisms for evaluating the success or failure of governing.” Ibid. 22-38.

⁶⁵ Barbara A. Biesecker and John L. Lucaites, *Rhetoric, Materiality, & Politics*, *Frontiers in Political Communication* (New York: Peter Lang, 2009). 3.

⁶⁶ Glickman contends that commodity activism cannot be understood through a singular theoretical lens, because it has been a part of various social movements for hundreds of years. This accentuates the need to explore the prominent rhetorical productions of contemporary commodity activism as a form of neoliberal protest rhetoric. Glickman, *Buying Power: A History of Consumer Activism in America*.

⁶⁷ Pezzullo, “Contextualizing Boycotts and Buycotts: The Impure Politics of Consumer-Based Advocacy in an Age of Global Ecological Crises.”

⁶⁸ Greene, “Another Materialist Rhetoric.” 22.

⁶⁹ This approach also allows me to heed the cautions of Hart and Daughton, who suggest that ideological criticism can run the risk of producing a “circulatory logic” where “exploitation” is initially posited, “the marks of exploitation are sought in a text,” and then the “text is used to prove the exploitation.” Roderick P. Hart and Suzanne Daughton, “Chapter 14: Ideological Criticism,” in *Modern Rhetorical Criticism*, ed. Roderick P. Hart and Suzanne Daughton (New York: Pearson, 2005). 329.

⁷⁰ With their public support has come numerous tales of fiscal generosity. For instance, celebrity game-show host Bob Barker, provided a five million dollar donation for an entire Sea Shepherd activist ship equipped with a high-powered laser and rocket signals. Even indie rock legends Modest Mouse collaborated with deceased star Heath Ledger to produce an animated music video to raise money for Sea Shepherd’s efforts, which was available for purchase post-mortem on iTunes. “Illegal Harrasment and Terrorism against Icr Research,” Institute of Cetacean Research, <http://www.icrwhale.org/gpandsea.html>. Also see “The Sea Shepherd’s Arsenal,” Discovery Communications, <http://animal.discovery.com/tv-shows/whale-wars/about-whaling/arsenal.htm>. Rachel Cemansky, “Heath Ledger’s Anti-Whaling Modest Mouse Music Video Shocks and Inspires,” Planet Green, <http://animal.discovery.com/endangered-species/heath-ledger-anti-whaling.htm>.

⁷¹ Pezzullo, “Contextualizing Boycotts and Buycotts: The Impure Politics of Consumer-Based Advocacy in an Age of Global Ecological Crises.”

⁷² David Boddiger, “Conservation Group Sea Shepherd Strikes Deal with Guatemala to Patrol Pacific,” The Tico Times, <http://www.ticotimes.net/2014/02/04/conservation-group-sea-shepherd-strikes-deal-with-guatemala-to-patrol-pacific>; “Australia Wins Whaling Case against

Japan in the Hague,” news.com.au, <http://www.news.com.au/national/australia-wins-whaling-case-against-japan-in-the-hague/story-fncynjr2-1226870210553>.

⁷³ For more on television shows as a medium for commodity activism see John McMurria, “Pay-for Culture: Television Activism in a Neoliberal Digital Age,” in *Commodity Activism: Cultural Resistance in Neoliberal Times*, ed. Roopali Mukherjee and Sarah Banet-Weiser (New York: New York University Press, 2012).

⁷⁴ According to Harvey, it was in the 1970s that there was widespread turn towards the practices of neoliberal capitalism. Harvey, *A Brief History of Neoliberalism*. 2-3.

⁷⁵ Margaret Scammell, “The Internet and Civic Engagement: The Age of the Citizen-Consumer,” *Political Communication* 17, no. 4 (2010). 353.

⁷⁶ Although whether or not Watson actually was a “co-founder” Greenpeace is up for debate, both sides agree that at minimum he was among the founding members that started the organization. Raffi Khatchadourian, “Neptune’s Navy,” *The New Yorker*, http://www.newyorker.com/reporting/2007/11/05/071105fa_fact_khatchadourian.

⁷⁷ Ibid. Additionally, Sea Shepherd has kept a log (albeit with an obvious bias) of their protests since their inception that can be found on their website. “The History of Sea Shepherd.”

⁷⁸ Interestingly, the Japanese whaling industry does not make a significant contribution to the Japanese economy and it has only minor fixtures in nationalistic traditions. As Jun Morikawa explains in his book *Whaling in Japan*, “For Japan . . . the continuation of whaling is neither a major economic issue nor a matter of vital national importance. But amazingly, somehow the Japanese government has allowed the issue to take on a magnitude and significance far beyond its actual importance and, in the process, has made the continuation of whaling a national goal

and a matter of national pride.” Jun Morikawa, *Whaling in Japan: Power, Politics and Diplomacy* (London: Hurst, 2009). 1.

⁷⁹ Ibid. 3.

⁸⁰ Ibid. 28-33.

⁸¹ Telegraph reports, “Whale meat was almost unknown in Japan until the food shortages hit after the Second World War, and the US general Douglas MacArthur encouraged them to start eating it.” “Paul Watson: Sea Shepherd Eco-Warrior Fighting to Stop Whaling and Seal Hunts,” The Telegraph, <http://www.telegraph.co.uk/earth/5166346/Paul-Watson-Sea-Shepherd-eco-warrior-fighting-to-stop-whaling-and-seal-hunts.html>.

⁸² *Whaling in Japan: Power, Politics and Diplomacy*. 19-28.

⁸³ Ibid. 28.

⁸⁴ Ibid. 3.

⁸⁵ Ibid. 2.

⁸⁶ In this manner, I take into account Greene’s contention that in the process of liberation, protest rhetoric also creates the very exigencies of the protest rhetor’s oppression. Ultimately, Greene suggests that an analysis of protest rhetoric based in showing its ability “to provide the better argument” is problematic because it ignores the host of variables that constitute the acceptance of the structures that validate what constitutes a “better argument.” Thus, any analysis of protest rhetoric’s efficaciousness is problematic, because this process must tautologically construct its own conditions for validity under the guise of objective critical analysis. In the words of Greene, all “sound rational arguments” are constructed constitutively, making “nothing...clear about the effectivity of particular rhetorical practices.” Therefore, keeping the words of Greene in mind, I seek to unravel some of the questions concerning *how* commodity activism is highly accepted

and politically efficacious practice. It is for this reason that I map out to how commodity activism draws upon complex discourses of neoliberal capitalism in order to construct conditions for its own cultural acceptance. Greene, “Another Materialist Rhetoric.” 36-38.

⁸⁷ Martin Luther King and Coretta Scott King, *The Words of Martin Luther King, Jr.*, 2nd ed. (New York: Newmarket Press, 1996). 25.

⁸⁸ Herman Melville, *Moby Dick*, Oxford World’s Classics (New York: Oxford University, 2008). 149.

⁸⁹ King and King, *The Words of Martin Luther King, Jr.* 25.

⁹⁰ Ana Louise Keating, *Teaching Transformation: Transcultural Classroom Dialogues*, 1st ed. (New York: Palgrave Macmillan, 2007). 26.

⁹¹ David Howard-Pitney, *The Afro-American Jeremiad: Appeals for Justice in America* (Philadelphia: Temple University, 1990). 148-152.

⁹² For example, King decreed in his 1967 Massey Lecture series, “Gargantuan industry and government, woven into an intricate computerized mechanism leaves a person outside. The sense of participation is lost, the feeling that ordinary individuals influence important decisions vanishes and man becomes separated and diminished. When an individual is no longer a true participant, when he no longer feels a sense of responsibility to his society, the content of democracy is emptied.” King and King, *The Words of Martin Luther King, Jr.* 19.

⁹³ In accordance with Malcolm X’s rhetoric on unity within the black “brotherhood,” he articulated this sentiment in his symposium on the 1964 “Harlem ‘Hate-Gang’ Scare” in order to explain how the United States needed a systemic and philosophical shift in order to incorporate the black community as equal citizens. George Breitman, ed. *Malcolm X Speaks: Selected Speeches and Statements* (New York: Merit, 1965). 69. For more on X’s rhetoric on capitalism,

socialism, and racism, see Frederick Harper, "The Influence of Malcolm X on Black Militancy," *Journal of Black Studies* 1, no. 4 (1971). 396. For more on shifting representations of X's struggles with separatism and brotherhood see J. Emmett Winn, "Challenges & Compromises in Spike Lee's Malcolm X," *Critical Studies in Media Communication* 18, no. 4 (2001). For more on Du Bois, see Jodi Melamed, "The Spirit of Neoliberalism: From Racial Liberalism to Neoliberal Multiculturalism," *Social Text* 89, no. 4 (2006). 10. Likewise, this sentiment was particularly reflected in Du Bois' contentious, but open, admiration of the communal nature of the Soviet Union. After a visit, he had no compunctions about broadcasting his high regard for the USSR. "The Soviet Union is great and growing greater, and, as it seems to believe, it belongs to this two hundred million folk about me. I am strongly inclined to agree with them," he gushed in his late autobiography. W. E. B. Du Bois, *The Autobiography of W.E.B. Du Bois: A Soliloquy on Viewing My Life from the Last Decade of Its First Century*, The Oxford W E B Du Bois (Oxford: Internatinoal, 1969). 35

⁹⁴ Dorothy Day, "Liturgy and Sociology," *The Catholic Worker* 1935.

⁹⁵ Susan Shultz Huxman, "Perfecting the Rhetorical Vision of Woman's Rights: Elizabeth Cady Stanton, Anna Howard Shaw, and Carrie Chapman Catt," *Women's Studies in Communication* 23, no. 3 (2000).

⁹⁶ Karen A. Foss, "Harvey Milk and the Queer Rhetorical Situation: A Rhetoric of Contradiction," in *Queering Public Address: Sexualities in American Historical Discourse*, ed. Charles E. Morris (Columbia: University of South Carolina 2007).

⁹⁷ Lester C. Olson, "Traumatic Styles in Public Address: Audre Lorde's Discourse as Exemplar," *ibid.* 257.

⁹⁸ To see an example of such factions within a movement one needs to look no further than the civil rights movement, where the supporters of King frequently distanced themselves from the Malcolm X collective.

⁹⁹ While some scholars like Pezzullo might think of boycotts as a form of collective action, several scholars such as Mukherjee & Banet-Weiser have argued that boycotts are contrariwise and in fact emblemize neoliberal individualism as a consumer practice.

¹⁰⁰ Michael A. Peters and James Marshall, *Individualism and Community: Education and Social Policy in the Postmodern Condition* (London: Routledge, 1996). 63.

¹⁰¹ Harvey, *A Brief History of Neoliberalism*. 2-5.

¹⁰² Pointing to the technological emergence of computer companies, which created a new type of industrial revolution, she explains that “smart students tinkering in garages” could “launch a thousand computer companies.” Aihwa Ong, *Neoliberalism as Exception*. 159. In this manner, Ong contends that neoliberal individualism is simultaneously “competitive,” “possessive,” and deployed via a rhetoric of “consumer sovereignty.” Aihwa Ong, *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty* (Durham N.C.: Duke University Press, 2006). 13.

¹⁰³ When discourses of advocacy become articulated in terms of private choices and entitlements, explains Banet-Weiser, the activist in neoliberal capitalism becomes “an entrepreneur of the self.” Hearn describes this tropological shift towards individualistic activist selves as a “shift from a working self to the self *as* work in the form of the self brand.” In other words, in neoliberal capitalism, the labor of the activist self moves away from the labor of collective resistance towards the practice of publicity driven self-branding. According to Jodi Dean, the practice of self-branding in neoliberal capitalism creates a sense of publicity that situates an entrepreneurial and narcissistic self as one’s primary audience. In her book *Blog Theory*, Dean

attaches the branding function as a type of communicative labor in neoliberal capitalism. This labor creates a feedback loop where the self becomes its own audience for the sake of perpetual publicity. She refers to publicity as “the ideology of communicative capitalism” and that “activists faith in the ideologies and networks of publicity” is grounded in the assumption that “there is no politics other than the market”—in this manner of thinking “the market” takes the place of the political. Banet-Weiser, *Authentic Tm: Politics and Ambivalence in a Brand Culture*.

37. Alison Hearn, “Brand Me “Activist”,” in *Commodity Activism: Cultural Resistance in Neoliberal Times*, ed. Roopali Mukherjee and Sarah Banet-Weiser (New York: New York University, 2012). 27. Jodi Dean, *Blog Theory: Feedback and Capture in the Circuits of Drive* (Cambridge: Polity, 2010). 74, 32-34.

¹⁰⁴ Radha Sarma Hegde, *Circuits of Visibility: Gender and Transnational Media Cultures*, Critical Cultural Communication (New York: New York University Press, 2011).

¹⁰⁵ Roopali Mukherjee and Sarah Banet-Weiser, *Commodity Activism: Cultural Resistance in Neoliberal Times*ibid. (2012). 9.

¹⁰⁶ C.E. Morris III, “Contextual Twilight/Critical Liminality: J.M. Barrie’s Courage at St. Andrews, 1922,” *Quarterly Journal of Speech* 82, no. 3 (1996). 221.

¹⁰⁷ Cahal Milmo, “The Red Revolution,” *The Independent* 2006. The term “poster-child for neoliberal humanitarianism” was derived from a conversation from Sean Kennedy, M.A.

¹⁰⁸ Dan Schawbel, “Blake Mycoskie: Why Business Should Stand for More Than Just Money,” *Forbes*, <http://www.forbes.com/sites/danschawbel/2014/02/03/blake-mycoskie-why-businesses-should-stand-for-more-than-just-money/>.

¹⁰⁹ Emphasis mine. Blake Mycoskie, *Start Something That Matters*, 1st ed. (New York: Spiegel & Grau, 2011).

¹¹⁰ Jessica Harris, “Ethics in a Bottle,” CNN,

<http://money.cnn.com/2007/10/31/smbusiness/Ethos.fsb/index.htm>.

¹¹¹ Aaron Taube, “Steve Jobs Thought the ‘Think Different’ Ad That Went Viral after His Death Was ‘Horrible’,” Business Insider, <http://www.businessinsider.com/steve-jobs-hated-apple-think-different-ad-2014-5>.

¹¹² “Jason Hall Organizes a Movement,” Apple Inc., <https://www.apple.com/your-verse/organizing-a-movement/>.

¹¹³ Katy Waldman, “That Bing Ad with Malala Yousafzai and Margaret Thatcher Is Weird,” Slate,

http://www.slate.com/blogs/xx_factor/2014/01/13/bing_salutes_the_brave_women_of_2013_in_a_stale_attempt_at_feminist_advertising.html. For more on Edith Windsor’s case in the Defense of Marriage Act see Peter Applebome, “Reveling in Her Supreme Court Moment,” The New York Times, http://www.nytimes.com/2012/12/11/nyregion/edith-windsor-gay-widow-revels-in-supreme-court-fight.html?pagewanted=all&_r=1&.

¹¹⁴ Although celebrities such as Angelina Jolie, Bill Gates, Brad Pitt, Desmond Tutu, and George Clooney, who have used their fame to bolster activist causes, Paul Watson’s celebrity is unique in that it is derived solely from his activism. Even actor Matt Damon parodied the rise of celebrity activists when he played a fictional version of himself in a recent cameo on Showtime’s *House of Lies*. In order to get back at George Clooney (who according to Damon, “puts on a Hawaiian shirt and gets handed a [expletive] Oscar...because people see him on TV going ‘err, Darfur, bad’”), he hired a consulting firm to help brand him as an influential activist. “I just basically need a cause, that’s the size of Clooney’s cause, but only with bigger tits,” he quipped in an instance of misogynistic comedy.

¹¹⁵ “Paul Watson: Sea Shepherd Eco-Warrior Fighting to Stop Whaling and Seal Hunts.”

¹¹⁶ Throughout the 1990s Watson had published several small books and appeared in a few low-level documentaries, but did not become a household name until his stardom in *Whale Wars*. As CNN explains, “Watson gained fame by disrupting Japanese whalers while at sea” and “Watson has become renowned for his attempts to disrupt Japanese whalers on the open water through Animal Planet’s *Whale Wars* TV show.” Michael Martinez, “‘Whale Wars’ Tv Star-Activist Resigns after Court Injunction,” CNN, <http://www.cnn.com/2013/01/08/us/whale-wars-captain-resigns/index.html>. For more on Watson’s rise to fame and manipulation of media frames, see Libby Lester, “Species of the Month: Anti-Whaling, Mediated Visibility, and the News,” *Environmental Communication: A Journal of Nature and Culture* 5, no. 1 (2011).

¹¹⁷ Khatchadourian, “Neptune’s Navy.”

¹¹⁸ Khatchadourian writes that almost as proof of his affiliation, Watson is quick to reference “a small statue of Hayagriva, a wrathful scowling deity, that was given to him by the Dalai Lama with a letter of support.” “Paul Watson: Sea Shepherd Eco-Warrior Fighting to Stop Whaling and Seal Hunts.”

¹¹⁹ Jordan Carlton Schaul, “The ‘Sea-Lebrities’ Are Supporting Captain Paul Watson,” National Geographic, <http://voices.nationalgeographic.com/2012/05/19/the-sea-lebrities-are-supporting-captain-paul-watson/>.

¹²⁰ Khatchadourian, “Neptune’s Navy.”

¹²¹ Ibid.

¹²² Ibid.

¹²³ Dave Eggers, *The Best American Nonrequired Reading 2008* (New York: Houghton Mifflin Harcourt, 2008).

¹²⁴ *Whale Wars: Season 1 Episode 2, Whale Wars* (Animal Planet, 2008).

¹²⁵ Although Sea Shepherd had not procured any large-scale successes—like aggressively halting and diminishing the returns on an entire industry backed by a large nation state, such as whaling in Japan—they had been incredibly active over the past 30 years. With an obvious bias, they champion their accomplishments, which include a number of small scale international conflicts and localized fishing changes, on their website: “The History of Sea Shepherd.”

¹²⁶ Khatchadourian, “Neptune’s Navy.”

¹²⁷ Lester for instance asserts that the sustainable media visibility necessary to procure significant protest success started in 2007-2010, alongside the filming and production of *Whale Wars*.

Lester, “Species of the Month: Anti-Whaling, Mediated Visibility, and the News.” 125-128.

¹²⁸ In 2002 Sea Shepherd’s ship, the *Farley Mowat*, began protesting Japanese whaling on the Antarctic coast. They reported minor success with encouraging a single Japanese whaling ship to evacuate the premises in 2006. Yet, it wasn’t until 2008, with the inception of the *Steve Irwin* ship and Animal Planets production that Sea Shepherd began to experience consistent impact in their protest actions. “The History of Sea Shepherd.”

¹²⁹ Gary Strauss, “‘Whale’ Saviors on Warpath; Series’ Team Chases Japanese Hunters,” *USA Today*, November 7 2008.

¹³⁰ Amy Kaufman, “‘Whale Wars’ Captain Paul Watson Swims with the Pod,” *Los Angeles Times*, <http://articles.latimes.com/2010/jun/04/entertainment/la-et-whalewars-20100604>.

¹³¹ Richard Besel and Rene Besel, “Whale Wars and the Public Screen: Mediating Animal Ethics in Violent Times,” in *Arguments About Animal Ethics*, ed. G. Goodale and J. E. Black (New York: Lexington Books, 2010). Mike Flaherty, “Controversy Buoy ‘Whale Wars,’” *Daily*

Variety, November 19 2008. Mike Hale, “‘Whale Wars’ Waits for Japanese Government,” *The New York Times*, February 18 2011.

¹³² “Whale Wars - Awards,” IMDB, http://www.imdb.com/title/tt1195419/awards?ref_=tt_ql_4.

¹³³ Dehnart, “Not Their Whale War Anymore: How Animal Planet Was Forced to Step Down.”

¹³⁴ Khatchadourian, “Neptune’s Navy.”

¹³⁵ Khatchadourian also adds that Watson possesses what “George Orwell once called a ‘lonely child’s habit of making up stories.’” Ibid.

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Lester, “Species of the Month: Anti-Whaling, Mediated Visibility, and the News.” 127.

¹⁴¹ Khatchadourian, “Neptune’s Navy.”

¹⁴² Despite asking Watson to leave Greenpeace, Greenpeace co-founder Hunter also openly supported Watson until he passed away in 2005. Ibid.

¹⁴³ Ibid.

¹⁴⁴ *Whale Wars: Season 1 Episode 1, Whale Wars* (Animal Planet, 2008). This is similarly repeated in the intro of episode two. *Whale Wars: Season 1 Episode 2*.

¹⁴⁵ Brown states that, “The extension of economic rationality to formerly non-economic domains and institutions extends to individual conduct, or more precisely, prescribes citizen-subject conduct in a neo-liberal order.” In this manner, “neo-liberalism normatively constructs and interpolates individuals as entrepreneurial actors in every sphere of life.” Ultimately, she asserts, “a fully realized neo-liberal citizenry would be the opposite of public-minded, indeed it would

barely exist as a public. The body politic ceases to be a body but is, rather, a group of individual entrepreneurs and consumers...” Brown, “Neoliberalism and the End of Liberal Democracy.”

¹⁴⁶ Brown states that, “The extension of economic rationality to formerly non-economic domains and institutions extends to individual conduct, or more precisely, prescribes citizen-subject conduct in a neo-liberal order.” In this manner, “neo-liberalism normatively constructs and interpellates individuals as entrepreneurial actors in every sphere of life.” Ultimately, she asserts, “a fully realized neo-liberal citizenry would be the opposite of public-minded, indeed it would barely exist as a public. The body politic ceases to be a body but is, rather, a group of individual entrepreneurs and consumers...” *ibid.*

¹⁴⁷ Sea Shepherd has grown considerably since the onset of *Whale Wars* and the show’s cast does not exhaust their grassroots support. In this manner, their grassroots support has grown to include made two primary branches: their “crew” volunteers and the “onshore” chapter volunteers. Sea Shepherd regularly issues calls for each on their website. For further information see “Get Involved with Sea Shepherd,” <http://www.seashepherd.org/get-involved/>.

¹⁴⁸ *Whale Wars: Season 1 Episode 1.*

¹⁴⁹ “Paul Watson: Sea Shepherd Eco-Warrior Fighting to Stop Whaling and Seal Hunts.”

¹⁵⁰ While *The Art of War* is attributed to ancient Chinese military general Sun Tzu it has taken root as a popular text in Japan. For example, there is a historical myth that in Sengoku era (1521-1573), a man named Takeda Shingen, a daimyo, was said to have become almost invincible in all battles—without guns—because he studied *The Art of War*. For more see *SunTzu and Samuel B. Griffith, The Art of War (New York: Oxford University Press, 2005)*. Also, *The Art of War* has been required reading for Japanese business managers for decades for more see, John P. Alston and Isa Takel, *Japanese Business Culture and Practices* (Lincoln: iUniverse, 2005).

¹⁵¹ *Whale Wars: Season 1 Episode 2.*

¹⁵² Ibid.

¹⁵³ *Whale Wars: Season 1 Episode 1.*

¹⁵⁴ *Whale Wars: Season 1 Episode 2.*

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Thomas Cleary, "Translator's Introduction," in *The Art of War*, ed. Sun Tzu (Boston: Shambhala, 2000). 24.

¹⁶² "Japan Orders Whalers to Free Two Sea Shepherd Hostages," (Canada.com, 2008).

¹⁶³ Lester, "Species of the Month: Anti-Whaling, Mediated Visibility, and the News."

¹⁶⁴ For more on the incident see Kim Chloe, "Ady Gil Sues Sea Shepherd over Antarctic Sinking," MediaWorks, <http://www.3news.co.nz/Ady-Gil-sues-Sea-Shepherd-over-Antarctic-sinking/tabid/417/articleID/282601/Default.aspx>. Also, for Discovery's news report see "Animals: Rammed Anti-Whaling Boat Sinks," Discovery News, <http://news.discovery.com/animals/videos/animals-rammed-anti-whaling-boat-sinks.htm>.

¹⁶⁵ "Sea Shepherd Cuts Ties with Whale Activist Pete Bethune," BBC News, <http://www.bbc.co.uk/news/10266219>. "Whaling Activist Bethune Gets Suspended Sentence," Media Works New Zealand, <http://www.3news.co.nz/world/whaling-activist-bethune-gets-suspended-sentence-2010070716#axzz3Pa1d9SyO>.

¹⁶⁶ “Sea Shepherd Cuts Ties with Whale Activist Pete Bethune.”

¹⁶⁷ Ibid.; Tony Field, “Pete Bethune Sues Sea Shepherd for \$500,000,” MediaWorks TV, <http://www.3news.co.nz/Pete-Bethune-sues-Sea-Shepherd-for-500000/tabid/423/articleID/263391/Default.aspx>; Ray Lilley, “Peter Bethune: Paul Watson Ordered Him to Sink Sea Shepherd's Own Boat, Ady Gil, ‘to Create Better Tv’ on ‘Whale Wars’,” Huffington Post, http://www.huffingtonpost.com/2010/10/07/peter-bethune-paul-watson_n_754764.html.

¹⁶⁸ Field, “Pete Bethune Sues Sea Shepherd for \$500,000.”

¹⁶⁹ Chloe, “Ady Gil Sues Sea Shepherd over Antarctic Sinking.” “‘Whale Wars’ Star Paul Watson Sued,” TMZ, <http://www.tMZ.com/2013/01/08/whale-wars-lawsuit-ady-gil-paul-watson-crash-japanese-sea-shepherd-society/>.

¹⁷⁰ “Watson gave himself the title of captain, though he does not have a captain’s license,” explained Khatchadourian, adding that, “In the eighties, Sellers and Watson fought so bitterly over the seaworthiness of Watson’s ship that they did not speak for fifteen years. (Sellers, a licensed captain, had insisted that it was not safe for ocean travel.)” Another crewmember surmised simply that, Watson “doesn’t like people who disagree with him.” Khatchadourian, “Neptune’s Navy.”

¹⁷¹ “Watson gave himself the title of captain, though he does not have a captain’s license,” explained Khatchadourian, adding, “In the eighties, Sellers and Watson fought so bitterly over the seaworthiness of Watson’s ship that they did not speak for fifteen years. (Sellers, a licensed captain, had insisted that it was not safe for ocean travel.)” Another crewmember surmised simply that, Watson “doesn’t like people who disagree with him.” Ibid.

¹⁷² Nancy Dewolf Smith, “Surprising Adventures,” *The Wall Street Journal*, November 7 2008.

¹⁷³ Raffi Khatchadourian, “Whale-War Fugitive: Q&a with Paul Watson,” *The New Yorker*, <http://www.newyorker.com/online/blogs/newsdesk/2013/06/whale-war-fugitive-q-a-with-paul-watson.html>.

¹⁷⁴ “Captain Louis [of the *Sam Simon*],” explained the narrator, “made the decision to back off, now the [Japanese whaling ships] have enough fuel to last for the rest of the season.” *Whale Wars: Season 6, Whale Wars* (Animal Planet, 2013).

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Albeit, unlike Watson, Hammarstedt asked the crew’s permission and gave those who were reluctant a chance to leave unashamed. Ibid.

¹⁷⁹ *Whale Wars: Season 6*.

¹⁸⁰ Ibid.

¹⁸¹ Khatchadourian, “Whale-War Fugitive: Q&a with Paul Watson.”

¹⁸² Gregg, “The Ego-Function of the Rhetoric of Protest.” 74.

¹⁸³ Chapter 1. Darsey, *The Prophetic Tradition and Radical Rhetoric in America*.

¹⁸⁴ Melamed, “The Spirit of Neoliberalism: From Racial Liberalism to Neoliberal Multiculturalism.” 10.

¹⁸⁵ In accordance with Malcolm X’s consistent rhetoric on unity within the black “brotherhood,” he articulated this sentiment in his symposium on the 1964 “Harlem ‘Hate-Gang’ Scare” in order to explain how the United States needed a systemic and philosophical shift in order to incorporate the black community as equal citizens. Breitman, *Malcolm X Speaks: Selected*

Speeches and Statements. 69. For more on Malcolm X's rhetoric on capitalism, socialism, and racism, see Harper, "The Influence of Malcolm X on Black Militancy." 396.

¹⁸⁶ Italics mine. Olson, "Traumatic Styles in Public Address: Audre Lorde's Discourse as Exemplar." 257.

¹⁸⁷ Khatchadourian states that Watson "contends that there are only two social currents that really matter, anthropocentrism and biocentrism, and they function in his thinking much like a Marxist dialectic: the former being a dominant and amoral world view that, fixated on the interests of one species, is inherently unstable, violent, and destined to collapse; the latter being a view that is held by a vanguard, egalitarian and just, and that, representing every species' interests, is destined to triumph." He also adds that "There is a strain of misanthropy in this way of thinking ... Watson has said that 'cancer is a cure to nature's problems,' that earthworms are more ecologically important than people, and that humanity resembles a virus on the verge of killing its host, the planet.' Khatchadourian, "Neptune's Navy."

¹⁸⁸ Du Bois, *The Autobiography of W.E.B. Du Bois: A Soliloquy on Viewing My Life from the Last Decade of Its First Century*. 309.

¹⁸⁹ Peter C. Newman, "The Table Talk of Marshall McLuhan," *Maclean's* 1971.

¹⁹⁰ An overview and/or press releases of Starbucks' fair trade coffee; Product (RED), U2, and Apple's *Songs of Innocence* release; and TOMs shoes can be found on their respective websites: "Apple & U2 Release "Songs of Innocence" Exclusively for iTunes Store Customers," news release, 2014, <https://www.apple.com/pr/library/2014/09/09Apple-U2-Release-Songs-of-Innocence-Exclusively-for-iTunes-Store-Customers.html>; "About Toms: Toms Company Overview," <http://www.toms.com/corporate-responsibility>; "Roasty & Sweet," Starbucks, <http://www.starbucks.com/coffee/dark/italian-roast/ground>.

¹⁹¹ Bennett explains that, “By inserting racist notions of black men in Africa as dangerous and culturally uneducated, Western states can reassure its populations that ‘African AIDS’ spreads more quickly and terribly. By blaming a culture as the mark of impurity, the state can draw attention away from the fact it withholds money for drugs and other programs to prevent disease.” Jeffrey A. Bennett, *Banning Queer Blood: Rhetorics of Citizenship, Contagion, and Resistance*, Rhetoric, Culture, and Social Critique (Tuscaloosa: University of Alabama Press, 2009). 44.

¹⁹² For a background on the (Red) campaign and Bono’s embrace of capitalism as a solution for AIDS in the African continent see Cindy Phu, “Save Africa: The Commodification of (Product) Red Campaign,” *Kaleidoscope* 9 (2010); Lisa Ann Richey and Stefano Ponte, “Better (Red) Than Dead? Celebrities, Consumption and International Aid,” *Third World Quarterly* 29, no. 4 (2008).

¹⁹³ Melamed, “The Spirit of Neoliberalism: From Racial Liberalism to Neoliberal Multiculturalism.”

¹⁹⁴ Michael Schudson, “The New Validation of Popular Culture: Sense and Sentimentality in Academia,” *Critical Studies in Mass Communication* 4 (1987). 53.

¹⁹⁵ In his 1928 book *Propaganda*, for instance, Edward Bernays argued that “the conscious and intelligent manipulation of the organized habits and opinions of the masses is an important element in democratic society.” Edward Bernays and Mark Crispin Miller, *Propaganda* (Brooklyn: Ig Publishing, 2005). 37. Additionally, see Michael Sproule’s discussion of the *muckrakers* for more on propaganda and WWI and his examination of the Institute for Propaganda Analysis (IPA) for more on propaganda in WWII. J. Michael Sproule, *Propaganda*

and Democracy : The American Experience of Media and Mass Persuasion, Cambridge Studies in the History of Mass Communications (Cambridge: Cambridge University, 1997).

¹⁹⁶ While focusing primarily on the rhetoric of Mein Kampf, Burke writes, “What are we to learn from Hitler’s book? For one thing, I believe that he has shown, to a very disturbing degree, the power of endless repetition. Every circular advertising a Nazi meeting had, at the bottom, two slogans: ‘Jews not admitted’ and ‘War victims free.’ And the substance of Nazi propaganda was build about these two ‘complimentary’ themes ... He also drops one wise hint that I wish the American authorities would take in treating Nazi gatherings. He says that the presence of a special Nazi guard, in Nazi uniforms, was of great importance in building up, among the followers, a tendency to place the center of authority in the Nazi party. I believe that we should take him at his word here, but use the advice in reverse, by insisting that, where Nazi meetings are to be permitted, they be policed by the authorities alone, and that uniformed Nazi guards to enforce the law be prohibited.” Kenneth Burke, “The Rhetoric of Hitlers Battle,” in *Readings in Propaganda and Persuasion*, ed. Garth S. Jowett and Victoria O’Donnell (London: Sage, 2006). 164.

¹⁹⁷ The term “axis powers” was originally coined by the Roosevelt administration, which was aimed towards the most prominent powers of opposition—Germany and Japan. Clayton Koppes and Gregory Black, *Hollywood Goes to War* (Berkley: University of California, 1987).

¹⁹⁸ To illustrate this fact John Dower points to an article in Science Digest that ran explaining “Why Americans Hate Japs More than Nazis.” John Dower, “Race, Language, and War in Two Cultures: World War I I in Asia,” in *The World War Two Reader*, ed. Gordon Martel (New York: Routledge, 2004). 227.

¹⁹⁹ Koppes and Black, *Hollywood Goes to War*. 250.

²⁰⁰ Ibid. 248-250.

²⁰¹ Ibid. 253.

²⁰² Ibid. 253.

²⁰³ Ibid. 271.

²⁰⁴ Ibid. 254.

²⁰⁵ Ibid. 261.

²⁰⁶ Ibid. 254.

²⁰⁷ Ibid. 270.

²⁰⁸ Ibid. 271.

²⁰⁹ For a more nuanced and descriptive list of anti-Japanese propaganda films see pages 250-274 in *ibid.*

²¹⁰ Melamed, “The Spirit of Neoliberalism: From Racial Liberalism to Neoliberal Multiculturalism.” 5-6.

²¹¹ *Ibid.* 14.

²¹² Nikhil Pal Singh, *Black Is a Country: Race and the Unfinished Struggle for Democracy* (Cambridge: Harvard, 2004). 223.

²¹³ Moving on to the private sector, Melamed also offers the Fortune 500 Company UPS—and their trademarked slogan “What can brown do for you?”—as another example of a how issues of social protest reframed issues of race as issues of culture. In the 1970s, explains Melamed, the term “brown” emerged as an antiracist term of “racial pride and solidarity” that also worked around polemic black/white notions of race relations. Yet, she expounds, the positive associations with the term “brown,” such as “pride, warmth, solidarity, and functioning community networks,” insidiously played off of racist associations of people of color with that of

service: “‘What can Brown do for you?’ thus takes a watchword of progressive 1970s antiracism and turns it into a slogan of happy subservience promising efficient access to the networks of global economy. By appropriating and abstracting earlier racial reference, what Brown does for UPS is sell its services. What U.S. multiculturalism does for neoliberalism, as we shall see, is analogous: it legitimates as it obfuscates.” Melamed, “The Spirit of Neoliberalism: From Racial Liberalism to Neoliberal Multiculturalism.” 3-17.

²¹⁴ Dougal McNeill, “Racist Undercurrents Taint Whaling Rhetoric,” *The Japan Times*, <http://www.japantimes.co.jp/community/2010/08/17/issues/racist-undercurrents-taint-whaling-rhetoric/>.

²¹⁵ Michael Safi, “Halt to Whaling Program Will Not Harm Japanese Relations, Says George Brandis,” <http://www.theguardian.com/environment/2014/apr/01/whaling-program-ban-will-not-harm-japanese-relations-says-george-brandis>.

²¹⁶ For more description on the “frequent use of lethal survey methods in [Japan’s] scientific research whaling” see Morikawa, *Whaling in Japan: Power, Politics and Diplomacy*. 38-47.

²¹⁷ *Whale Wars: Season 1 Episode 1*.

²¹⁸ Although the “Ministry of Fisheries” and the “Fisheries Agency” are often conflated in news reports, it should be noted that the Ministry of Fisheries is actually a specific subdivision of the Fisheries Agency of the Ministry of Agriculture, Forestry, and Fisheries. Of note, the little mentioned Japanese Whaling Agency (JWA) sometimes works in conjunction with the ICR and the Ministry of Fisheries. 66-71.

²¹⁹ It should be noted that Morikawa mentions that Japan’s Ministry of Foreign Affairs is deeply involved in whaling practices as well, but they tend to step aside to the Ministry of Fisheries and allow them to carry out and publically promote/defend whaling practices. Kyodo Senpaku, on

the other hand, is the corporation that carries out much of the pragmatic work of whaling and distribution. Morikawa, *Whaling in Japan: Power, Politics and Diplomacy*. 5-10; 40.

²²⁰ Ibid. 37-38.

²²¹ Ibid. 5-13; 44-54.

²²² Ibid. 44-46.

²²³ Cristen Conger, “Whale Wars: How the Institute for Cetacean Research Works,” Animal Planet, <http://www.animalplanet.com/tv-shows/whale-wars/about-whaling/how-the-institute-of-cetacean-research-works/>.

²²⁴ As Bricker explains, anti-environmental organizations such as *The Heartland Institute* use strategic-naming strategies and self-definitional arguments in order to deflect their own highly contentious political agendas. For more on anti-environmental organizations see Brett Jacob Bricker, “Feigning Environmentalism: Anti-environmental Organizations, Strategic Naming, and Definitional Argument,” *Western Journal of Communication* 78, no. 5 (2014).

²²⁵ Morikawa, *Whaling in Japan: Power, Politics and Diplomacy*. 38-40.

²²⁶ As Morikawa explains, The ICR’s “activities are not limited to purely scientific surveys but extend to include marketing efforts to promote the sale of whale meat, pro-whaling education, public relations and advertising, and organization and advocacy for pro-whaling forces, as well as supporting the government and forming and establishing international pro-whaling networks at IWC meetings. In other words, the ICR has a whale of an agenda.” Ibid. 39.

²²⁷ Ibid. 41.

²²⁸ *Whale Wars: Season 6*.

²²⁹ Ibid.

²³⁰ *Whaling in Japan: Power, Politics and Diplomacy*. 1.

²³¹ The sanctity of whales have been revered and protected in Japanese cultural traditions as “gods of good fortune” who “brought happiness and good catch to costal fishing communities.” Historically, only fishing communities have eaten whale meat, which leaves little precedent for large-scale national consumption. In fact, in ancient times, the fishing communities who ate whale meat only killed “stranded” whales and viewed them as “random gifts from the sea.” Commercial whaling was not an ancient practice and emerged in modern times, only flourishing post-World War II, due to U.S. pressure to use whale meat to absolve food shortages. Even many of the fishing villages that benefit from the whaling industry have opposed commercial whaling due to issues of sustainability. In fact, in 1987, the commercial whaling industry was forced to reconcile with issues of sustainability in the early 1970s and end an 81-year-old modern history of whaling. In essence, although whaling has since resumed, in the words of Morikawa, “looking back over Japan’s 2,000-year history, it is clear that deep-sea commercial whaling is one of Japan’s most recent ‘traditions,’ but one that the government is determined to uphold.” Ibid. 3-28.

²³² Lester, “Species of the Month: Anti-Whaling, Mediated Visibility, and the News.”

²³³ “Paul Watson: Sea Shepherd Eco-Warrior Fighting to Stop Whaling and Seal Hunts.”

²³⁴ Paul Watson, “Refuting the Racist Rhetoric,” Sea Shepherd Conservation Society, <http://www.seashepherd.org/commentary-and-editorials/2010/08/20/refuting-the-racist-rhetoric->73.

²³⁵ McNeill, “Racist Undercurrents Taint Whaling Rhetoric.”

²³⁶ Watson, “Refuting the Racist Rhetoric.”

²³⁷ Ibid.

²³⁸ Ibid.

²³⁹For instance, in the *Whale Wars* premiere, Paul Watson claims that “One whale can go anywhere from a quarter of a million dollars to a million dollars. It’s big big business.” *Whale Wars: Season 1 Episode 1*.

²⁴⁰ Jacob Gordon, “Captain Paul Watson of Whale Wars,” Treehugger, <http://www.treehugger.com/treehugger-radio/captain-paul-watson-of-whale-wars.html>.

²⁴¹ “Paul Watson Crew Interviews Whale Wars,” <http://animal.discovery.com/tv-shows/whale-wars/about-whaling/interviews-paul-watson.htm>.

²⁴² Koppes and Black, *Hollywood Goes to War*. 253.

²⁴³ *Whale Wars: Season 1 Episode 1*.

²⁴⁴ Ibid.

²⁴⁵ Ibid.

²⁴⁶ For instance, Quartermaster Kim McCoy states, “You see that whale and there is a connection, and you feel a sense of obligation to do something.” First Mate Peter Brown subsequently adds, “We shouldn’t be wack’n one of the greatest species on the planet. I mean their brain is bigger than a car [sic].” See *ibid*.

²⁴⁷ Ibid.

²⁴⁸ Ibid.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Morikawa, *Whaling in Japan: Power, Politics and Diplomacy*. 3.

²⁵³ *Ibid*. 28.

²⁵⁴ See Nick Bryant, “Politics at Play in Sea Shepherd-Japan Whaling Wars,” BBC News, <http://www.bbc.co.uk/news/world-asia-21612740>. Additionally, the Telegraph reports, “Whale meat was almost unknown in Japan until the food shortages hit after the Second World War, and the US general Douglas MacArthur encouraged them to start eating it.” “Paul Watson: Sea Shepherd Eco-Warrior Fighting to Stop Whaling and Seal Hunts.”

²⁵⁵ “Politics at Play in Sea Shepherd-Japan Whaling Wars.”

²⁵⁶ Morikawa, *Whaling in Japan: Power, Politics and Diplomacy*. 43.

²⁵⁷ *Whale Wars: Season 1 Episode 1; Whale Wars: Season 1 Episode 2*.

²⁵⁸ *Whale Wars: Season 1 Episode 2*.

²⁵⁹ Ibid.

²⁶⁰ While *The Art of War* is attributed to ancient Chinese military general Sun Tzu it has taken root as a popular text in Japan. For example, there is a historical myth that in Sengoku era (1521-1573), a man named Takeda Shingen, a daimyo, was said to have become almost invincible in all battles—without guns—because he studied *The Art of War*. For more see *SunTzu and Griffith, The Art of War*. Additionally, *The Art of War* has been required reading for Japanese business managers for decades for more see, Alston and Takel, *Japanese Business Culture and Practices*.

²⁶¹ *Whale Wars: Season 1 Episode 2*.

²⁶² Smith provides a very in depth explanation of *seppuku*. Andrew Smith, “Mishima’s Seppuku Speech: A Critical-Cultural Analysis,” *Text and Performance Quarterly* 10 (1990). 7-11.

²⁶³ “Japanese Whaling Advocates Gather in Tokyo,” NTD Television, <http://www.ntd.tv/en/news/world/asia-pacific/20100223/52486-japanese-whaling-advocates-gather-in-tokyo.html>.

²⁶⁴ *Whale Wars: Season 4 Episode 10, Whale Wars* (Animal Planet, 2011).

²⁶⁵ For more on how tokenism can be used as a mediated strategy to reinforce hegemonic norms, see Dana L Cloud, "Hegemony or Concordance? The Rhetoric of Tokenism in "Oprah Winfrey's Rags-to-Riches Biography," *Critical Studies in Mass Communication* 13 (1996).

²⁶⁶ Joanne Brookfield, "Japanese Volunteers Join Anti-Whaling Fight," *The Sydney Morning Herald*, <http://www.smh.com.au/world/japanese-volunteers-join-antiwhaling-fight-20130201-2dq14.html>.

²⁶⁷ Brendan O'Neill, "Shades of Open Prejudice in War on Whalers," *The Australian*, January 13 2012.

²⁶⁸ "Remember World War II: Sea Shepherd Depicts Japanese as Uniquely Cruel & Dishonest," JapanProbe, <http://www.japanprobe.com/2012/01/20/remember-world-war-ii-sea-shepherd-depicts-japanese-as-uniquely-cruel-dishonest/>.

²⁶⁹ "Anti-Whaling Groups Display 'Open Prejudice' Towards Japanese," JapanProbe, <http://www.japanprobe.com/2012/01/19/anti-whaling-groups-display-open-prejudice-towards-japanese/>.

²⁷⁰ The divide between Watson and Greenpeace is explained by *Whale Wars*' in the initial episodes when the narrator explains, "Their captain Paul Watson was a co-founder of Green Peace before he was asked to leave because of his aggressive tactics." *Whale Wars: Season 1 Episode 2*. He then founded Sea Shepherd and for the last 30 years he has been fighting to save animals from death by human hands." For more on the divide between Watson, Hunter, and Greenpeace see Khatchadourian, "Neptune's Navy."

²⁷¹ Morikawa, *Whaling in Japan: Power, Politics and Diplomacy*. 4. For more discussion on issues of culture see pages 19-36.

²⁷² “Us Court Brands Whale Activist Sea Shepherd ‘Pirates’,” BBC News,

<http://www.bbc.com/news/world-asia-21589352>.

²⁷³ Bryant, “Politics at Play in Sea Shepherd-Japan Whaling Wars.”

²⁷⁴ Julia Musto, “Everything You Need to Know About Japanese Whaling,” Huffington Post,

[http://www.huffingtonpost.com/julia-musto/everything-you-need-to-know-japanese-](http://www.huffingtonpost.com/julia-musto/everything-you-need-to-know-japanese-whaling_b_5460142.html)

[whaling_b_5460142.html](http://www.huffingtonpost.com/julia-musto/everything-you-need-to-know-japanese-whaling_b_5460142.html).

²⁷⁵ “A language of multiculturalism consistently portrays acts of force required for neoliberal restructuring to be humanitarian: a benevolent multicultural invader (the United states, multinational troops, a multinational corporation) intervenes to save life, ‘give’ basic goods or jobs, and promote limited political freedoms,” explains Melamed. Melamed, “The Spirit of Neoliberalism: From Racial Liberalism to Neoliberal Multiculturalism.” 1.

²⁷⁶ Ibid. 1.

²⁷⁷ Koppes and Black, *Hollywood Goes to War*. 276.

²⁷⁸ The premiere of *Whale Wars* opens with a clip of a crewmember referring to the Japanese ship. “That ship stands for everything I hate,” he states, “killing innocent animals in a world where it doesn’t belong anymore.” With particular emphasis on his each word he reiterates his position: “I hate that ship!” As the show carries on, Sea Shepherd leader Captain Paul Watson repeatedly refers to the Japanese whalers as criminals, which makes the intentions of Sea Shepherd explicitly clear. “You don’t beg criminals to stop doing what they are doing,” he asserts, “You intervene and you physically and aggressively shut them down.” First Mate Peter Brown follows by radioing to the Japanese boat in anger and screaming, “Go back to Japan!” *Whale Wars: Season 1 Episode 1*.

²⁷⁹ A. Cheree Carlson, "Gandhi and the Comic Frame: "Ad Bellum Perificandum"," *Quarterly Journal of Speech* 72 (1986). 446-447.

²⁸⁰ Gore Verbinski, "Pirates of the Caribbean: The Curse of the Black Pearl," (Walt Disney Pictures, 2003).

²⁸¹ Melville, *Moby Dick*. 228.

²⁸² Kozinski, "Appeal from the United States District Court for the Western District of Washington." 6.

²⁸³ Nick Perry, "Sea Shepherd Claims 'False': Japan," *The Australian*, <http://www.theaustralian.com.au/news/latest-news/sea-shepherd-claims-false-japan/story-fn3dxiwe-1226608349355>.

²⁸⁴ Judge Richard A. Jones, "Order Denying Motion for Preliminary Injunction," in *CII-2043RAJ*, ed. United States District Court Western District of Washington at Seattle (Seattle, WA2012).

²⁸⁵ Tom Banse, "Japanese Whalers Sue in Seattle to Stop Sea Shepherd 'Harassment'," NPR, <http://www.npr.org/templates/story/story.php?storyId=147008816>.

²⁸⁶ Paul Elias, "Court: Anti-Whaling Protesters Are Pirates," Associated Press, <http://www.huffingtonpost.com/huff-wires/20130226/us-whaling-protest-lawsuit/>. Dehnart, "Not Their Whale War Anymore: How Animal Planet Was Forced to Step Down". Kozinski, "Appeal from the United States District Court for the Western District of Washington." 2.

²⁸⁷ David Kirby, "Sea Shepherd's Paul Watson Mocks Court's 'Pirate' Ruling," Participant Media, <http://www.takepart.com/article/2013/02/28/us-court-calls-sea-shepherd-pirates>.

²⁸⁸ "Sea Shepherd Crew Not 'Pirates' - Expert," *The New Zealand Herald*, http://www.nzherald.co.nz/world/news/article.cfm?c_id=2&objectid=10868490.

²⁸⁹ Justin McCurry, “Experts Reject Japan’s New Whaling Plan,” The Guardian, <http://www.theguardian.com/environment/2015/apr/14/experts-reject-japans-new-whaling-plan>.

²⁹⁰ For a lengthy report on the relational ramifications of the decision between Discovery’s Animal Planet and Sea Shepherd see *ibid*.

²⁹¹ Dehnart, “Not Their Whale War Anymore: How Animal Planet Was Forced to Step Down.”

²⁹² *Ibid*.

²⁹³ *Ibid*.

²⁹⁴ *Ibid*.

²⁹⁵ According to the *Whale Wars* special, the whaler’s quota for the season was 1,035 whales and they only killed 103, which was the “lowest catch in Sea Shepherd history.” *Whale Wars: Season 6*.

²⁹⁶ “Sea Shepherd Agrees \$2.55m Payment to Japanese Whalers for Injunction Breach,” The Guardian, <http://www.theguardian.com/environment/2015/jun/10/sea-shepherd-payment-japanese-whalers-breaching-injunction>.

²⁹⁷ Caty Enders, “Can Sea Shepherd Survive Its Own Success,” The Guardian, <http://www.theguardian.com/environment/2015/jun/05/sea-shepherd-whale-wars-animal-planet>.

²⁹⁸ This partnership between the state and the privatized interests of corporate power is a far cry from the conceptual ideals of classical liberalism. In classical liberalism, explains Michel Foucault, strong state power regulated corporate driven market forces. Yet, in neoliberal capitalism the role of state regulation and corporate power are palpably switched and the market is free to regulate itself. “Neo-liberalism removes the limiting, external principle and puts a regulatory and inner principle in its place: It is the market form which serves as the organizational principle for the state and society,” Foucault expounds. With the state’s regulatory

power removed, the market is now free to regulate itself, and the private interests of corporations are left to self regulate. Accordingly, in a utopian vision of neoliberalism, a neoliberal marketplace would regulate itself and sustain elite corporate power only insofar as corporations outpace their marketplace competition. In this manner, corporate power would be perpetually restructured as a necessity for a functioning marketplace. The ideals of a self-regulating marketplace have regularly failed to manifest, however. Instead of letting the marketplace regulate itself while continually restructuring corporate power, the state retains enough authority to legitimize—and even sustain—corporate power. “The evidence suggests,” explains David Harvey, “that when neoliberal principles clash with the need to restore or sustain elite power,” the principles of a self-regulating market are either “abandoned” or become “unrecognizable.” For example, a neoliberal reading of contemporary the U.S. 2008 Emergency Economic Stabilization Act (i.e. “The Bank Bailouts”) offers a prime example of how elite corporate power can eschew the idealized regulatory (and equalizing) function of a free market via strong state support. As the banks utilized governmental resources to keep from failing, they evidenced a prime example of fallacious marketplace special pleading. Indeed, this is how the state tends to operate in neoliberal capitalism: it is a state whose regulatory power carries the legitimization and sustenance of corporate power as a primary function. Thomas Lemke, *Biopolitics : An Advanced Introduction*, Biopolitics, Medicine, Technoscience, and Health in the 21st Century (New York: New York University Press, 2011). 10. Harvey, *A Brief History of Neoliberalism*. 2-19. For more on the nature of state subservience in relation to the 2008 banking crisis see William Davies, *The Limits of Neoliberalism: Authority, Sovereignty and the Logic of Competition*, Theory, Culture & Society (Los Angeles: Sage, 2014). 148-187.

²⁹⁹ Wendy Brown, ““We Are All Democrats Now . . .,”” in *Democracy in What State?*, ed. G. Agamben, et al. (New York: Columbia University Press, 2011). 48-49.

³⁰⁰ A number of scholars have examined court rulings that have given rights of personhood to corporations. As Mary Lyn Stoll articulates, “Although the courts have ruled that companies are legal persons, they have not yet made clear the extent to which political free speech for corporations is limited by the strictures legitimately placed upon corporate commercial speech.” Additionally, I particularly appreciated Nneka Logan’s conference presentation on the rise of corporation personhood and power as it relates to the 14th amendment. Finally, for a lengthy discussion and synopsis of the history of corporate personhood see Thimsen’s research on corporate personhood, titled “The People Against Corporate Personhood: Doxa and Dissensual Democracy.” Mary Lyn Stoll, “Corporate Rights to Free Speech?,” *Journal of Business Ethics* 58 (2005); Nneka Logan, “Santa Clara, the Fourteenth Amendment and the Rise of Corporate Personhood and Power: A Rhetorical Analysis of Text in Context” (paper presented at the National Communication Association, Orlando, Florida, 2012). A. Freya Thimsen, “The People against Corporate Personhood: Doxa and Dissensual Democracy,” *Quarterly Journal of Speech* 101, no. 3 (2015). 488-490.

³⁰¹ Ben Voth, *Rhetoric of Genocide: Death as a Text* (New York: Lexington, 2014). 68-69. For more see Terence Fokas, “Barbary Coast Revisited: The Resurgence of International Maritime Piracy,” *The University of San Francisco Maritime Law Journal* 9 (1997). Moreover, the contested notions of corporate personhood have even found a voice in popular culture. As a dialogue in HBO’s *Newsroom* wittily points out during an interview for an economic reporter, “the difference between a corporation and a person” can be summarized as such: “Have you ever held a door open for someone?” asks Sloan, the future reporter. “Yes,” replies MacKenzie, the

interviewer. “Did you ask them for money first?” replies Sloan: “No,” says MacKenzie. “That’s the difference,” Sloan proclaims. “That’s the right answer,” responds a smiling MacKenzie.

James Poniewozik, “Dead Tree Alert: Blowhardball: The Not-So-Special Comment of Hbo’s the Newsroom,” Time Magazine, <http://entertainment.time.com/2012/06/21/dead-tree-alert-blowhardball-the-not-so-special-comment-of-hbos-the-newsroom/>.

³⁰² Marouf Hasian Jr. and Megan D. McFarlane, “A Critique of Jim Aune’s Rhetoric, Legal Argumentation, and Historical Materialism,” *Argumentation and Advocacy* 50 (2014). The ATS has also been used in contemporary legal discussions over issues of piracy. As I discuss in greater depth later in this chapter, the very same ATS that Jefferson used in 1789 was a crucial component in the dispute between Sea Shepherd and the Japanese whaling industry as it moved from the center of the prosecution’s initial case, to the periphery of their successful appeal, and then into the crux of the defense’s appeal.

³⁰³ H.E. Jose Luis Jesus, “Protection of Foreign Ships against Piracy and Terrorism at Sea: Legal Aspects,” *International Journal of Marine and Coastal Law* 18, no. 3 (2003).

³⁰⁴ Fokas, “Barbary Coast Revisited: The Resurgence of International Maritime Piracy.” Likewise, Judge H.E. Jesus expounds that this modern resurgence of piracy is due in part “to the demise of age-old geo-political strategies” that allows lacunae in the state’s ability to prop which creates both a lack of “policing functions” and lacunae “in the regulations on legal protection or in the weak enforcement of such regulations.” Jesus, “Protection of Foreign Ships against Piracy and Terrorism at Sea: Legal Aspects.” 365.

³⁰⁵ “United Nations Convention on the Law of the Sea,” ed. United Nations (1982). Article 101.

³⁰⁶ *Ibid.* Article 101.

³⁰⁷ As Gary Nagtzaam and Pete Lentini explain, a ship can be declared a pirate vessel if it lacks a “home port,” remains “unregistered,” or does not fly “a national flag.” Gerry Nagtzaam and Pete Lentini, “Vigilantes on the High Seas?: The Sea Shepherds and Political Violence,” *Terrorism and Political Violence* 20, no. 1 (2007). 114.

³⁰⁸ It should be noted that there is quite a bit of uncertainty for how to establish grounds for criminal piracy in a court of law. Although UNCLOS generally provides the legal foundation for piracy claims, these abbreviated definitions of piracy are rather vague and quite circumstantial; this is a common critique in piracy law. It is for this reason, other issues such as state affiliation find their way into modern legal definitions of piracy.

³⁰⁹ N. Fraser, “Transnationalizing the Public Sphere: On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World,” *Theory Culture and Society* 24, no. 4 (2007). 22.

³¹⁰ Kenneth Burke, *Language as Symbolic Action* (Berkeley: University of California, 1966). 30.

³¹¹ As mentioned earlier, the definition includes “any illegal acts of violence” that are “committed for private ends” against another “ship on the high seas or persons or property aboard it.” Jones, “Order Denying Motion for Preliminary Injunction.” 22.

³¹² Ibid.

³¹³ Ibid. 21.

³¹⁴ Ibid. 21.

³¹⁵ Ibid. 22.

³¹⁶ Ibid. 23.

³¹⁷ Ibid. 38.

³¹⁸ Ibid. 22.

³¹⁹ “Sea Shepherd profits from its Southern Ocean campaigns both because Animal Planet pays it for the privilege of filming ‘Whale Wars’ and because its fundraising efforts no doubt succeed in part based on the success of its anti-whaling efforts. Nonetheless, financial gain is not the purpose of its conduct, it is merely a byproduct. Sea Shepherd would cease its ‘piracy’ immediately if the Plaintiffs stopped killing whales,” explained Judge Jones. Additionally, it should be noted that this essay has already mentioned that Animal Planet disputes that they have paid Sea Shepherd to film their protests. Ibid. 22.

³²⁰ Ibid. 22-23.

³²¹ Ibid. 41.

³²² Ibid. 33.

³²³ Ibid. 33.

³²⁴ Ibid. 43-44.

³²⁵ Kozinski, “Appeal from the United States District Court for the Western District of Washington.” 3-4.

³²⁶ Ibid. 4.

³²⁷ Ibid. 3-4.

³²⁸ “Ramming ships, fouling propellers and hurling fiery and acid-filled projectiles easily qualify as violent activities, even if they could somehow only be directed at inanimate objects,” declared Judge Kozinski. Additionally, for Judge Kozinski, Sea Shepherd had enacted violence upon the Japanese whalers, because he believed their actions could cause the ships “to sink or become stranded in glacier-filled, Antarctic waters.” Ibid. 5-6.

³²⁹ Italics mine. Ibid. 2. A number of news media outlets (such as BBC, Huffington Post, The Guardian, ABC, etc...) used this quote in their discussion of the highly controversial decision.

For examples, see: Bryant, “Politics at Play in Sea Shepherd-Japan Whaling Wars.” Elias, “Court: Anti-Whaling Protesters Are Pirates.” McCurry, “Experts Reject Japan’s New Whaling Plan.”

³³⁰ Kozinski, “Appeal from the United States District Court for the Western District of Washington.”; McCurry, “Experts Reject Japan’s New Whaling Plan.” 5.

³³¹ Kozinski, “Appeal from the United States District Court for the Western District of Washington.” 4-6.

³³² Ibid. 6.

³³³ “Paul Watson Crew Interviews Whale Wars.” It should be noted that neither Judge Kozinski nor Judge Jones accepted the U.N. conservation law as a legally binding doctrine.

³³⁴ Ibid.

³³⁵ For a brief synopsis of the myriad of verbal and physical state conflicts Sea Shepherd has been involved in over the past thirty years see Khatchadourian, “Neptune’s Navy.”

³³⁶ *Whale Wars: Season 1 Episode 1.*

³³⁷ Trish Dolman, “Eco-Pirate: The Story of Paul Watson,” (Epix, 2011).

³³⁸ Peter Brown, “Confessions of an Eco-Terrorist,” (Snagfilms, 2010).

³³⁹ Dolman, “Eco-Pirate: The Story of Paul Watson.”

³⁴⁰ Pun intended.

³⁴¹ Kozinski, “Appeal from the United States District Court for the Western District of Washington.” 12.

³⁴² Ibid. 11. Of note, in 2014 the IJC ruled against the Japanese Whaling Industry and advocated that their whaling practices were not scientific in nature and exploited whaling as for for-profit motives. For more, see McCurry, “Experts Reject Japan’s New Whaling Plan.” “Japan Ordered

to Immediately Stop Whaling in Antarctic as International Court of Justice Rules Program Was Not Carried out for Scientific Purposes,” ABC News, <http://www.abc.net.au/news/2014-03-31/ijc-japan-whaling-southern-ocean-scientific-research/5357416>.

³⁴³ Kozinski, “Appeal from the United States District Court for the Western District of Washington.” 13.

³⁴⁴ Judge Kozinski also stated that Furthermore, Judge Kozinski also undermined Australia’s jurisdiction by asserting, “neither the United States nor Japan recognizes Australia’s jurisdiction over any portion of the Southern Ocean.” Ibid. 13.

³⁴⁵ Ibid. 13.

³⁴⁶ Ibid. 13.

³⁴⁷ Ibid. 8.

³⁴⁸ Fraser, “Transnationalizing the Public Sphere: On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World.” 20.

³⁴⁹ Kirby, “Sea Shepherd’s Paul Watson Mocks Court’s ‘Pirate’ Ruling”.

³⁵⁰ *Whale Wars: Season 6*.

³⁵¹ Judge Milan D. Smith Jr., “On a Motion for Contempt,” in *12-35266 D.C. No. 2:11-cv-02043-RAJ*, ed. United States Court of Appeals for the Ninth Circuit (Pasadena, California 2014). 30.

³⁵² Ibid. 2.

³⁵³ Ibid. 30.

³⁵⁴ “Sea Shepherd Agrees \$2.55m Payment to Japanese Whalers for Injunction Breach.” 5.

³⁵⁵ Hasian Jr. and McFarlane, “A Critique of Jim Aune’s Rhetoric, Legal Argumentation, and Historical Materialism.” 210.

³⁵⁶ Ibid. 210-11.

³⁵⁷ Ibid. 211.

³⁵⁸ Eric Posner, “The United States Can’t Be the World’s Courthouse,” Slate,
http://www.slate.com/articles/news_and_politics/view_from_chicago/2013/04/the_supreme_court_and_the_alien_tort_statute_ending_human_rights_suits.html.

³⁵⁹ Ibid.

³⁶⁰ Ibid.

³⁶¹ Jones, “Order Denying Motion for Preliminary Injunction.” 29-30.

³⁶² Ibid. 32.

³⁶³ Ibid. 28.

³⁶⁴ For Judge Jones lengthy analysis see *ibid.* 12-35.

³⁶⁵ For Judge Jones lengthy analysis see *ibid.* 12-35.

³⁶⁶ Cetacean sued under the Alien Tort Statute . . . for injunctive and declaratory relief. The statute provides a cause of action for “a tort . . . committed in violation of the law of nations or a treaty of the United States . . . Cetacean argues that Sea Shepherd’s acts amount to piracy and violate international agreements regulating conduct on the high seas,” explained Judge Kozinski as he introduced his opinion piece on the ruling. “The district court denied Cetacean’s request for a preliminary injunction and dismissed its piracy claims. We have jurisdiction over the order denying the injunction pursuant . . . We also have jurisdiction to review the dismissal of the piracy claims because the district court’s reasoning for dismissing them is “inextricably intertwined with” its reasons for denying the preliminary injunction,” he added.

Kozinski, “Appeal from the United States District Court for the Western District of Washington.” 2-3. For a synopsis of this decision that explains the importance of ATS to the case

based on a press release issued by Sea Shepherd, see “Sea Shepherd Conservation Society Takes ‘Whale Wars’ to Supreme Court,” Business Wire, <http://www.businesswire.com/news/home/20150429005797/en/Sea-Shepherd-Conservation-Society-Takes-‘Whale-Wars’#.VcumCWAjHKA>.

³⁶⁷ Judge Kozinski merely iterated the summarized fact that ATS had been used. “Cetacean sued under the Alien Tort Statute, 28 U.S.C. § 1350, for injunctive and declaratory relief,” he explained. “The statute provides a cause of action for “a tort . . . committed in violation of the law of nations or a treaty of the United States.” “Appeal from the United States District Court for the Western District of Washington.” 2.

³⁶⁸ Peter Weiss, “The Question before the Us Supreme Court in Kiobel V Shell,” The Guardian, <http://www.theguardian.com/commentisfree/cifamerica/2012/feb/28/question-before-supreme-court-kiobel-v-shell>.

³⁶⁹ Of note, Judge Jones’ assertion that that no legal change had occurred to limit court power in the ATS proceedings was now inconsistent with the current turn of events. Jones, “Order Denying Motion for Preliminary Injunction.” 32.

³⁷⁰ Andy Giegerich, “Oregon Anti-Whaling Group Looks to Take Case to Supreme Court,” Portland Business Journal, http://www.bizjournals.com/portland/morning_call/2015/04/portland-law-firm-helps-anti-whaling-group-take.html.

³⁷¹ “Supreme Court Declines to Hear Sea Shepherd Case against Whalers,” news release, 2015, <http://www.seashepherd.org/news-and-media/2015/06/08/supreme-court-declines-to-hear-sea-shepherds-case-against-whalers-1701>. It should also be noted that is not uncommon for the Supreme Court to dismiss appeals, as they generally accept less than 1% of the cases brought their way.

³⁷² “Sea Shepherd Conservation Society Takes ‘Whale Wars’ to Supreme Court.”

³⁷³ As Davis explained, “after more than two years of litigation, we are very pleased to be putting the contempt action behind us.” “Sea Shepherd Agrees \$2.55m Payment to Japanese Whalers for Injunction Breach.”

³⁷⁴ Fraser, “Transnationalizing the Public Sphere: On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World.” 21.

³⁷⁵ Ibid. 21-23.

³⁷⁶ Enders, “Can Sea Shepherd Survive Its Own Success.”

³⁷⁷ Ibid.

³⁷⁸ Boddiger, “Conservation Group Sea Shepherd Strikes Deal with Guatemala to Patrol Pacific.”

³⁷⁹ Dan Stevens, “Sea Shepherd Sets up Shop in Costa Rica,” *The Costa Rican Times*, <http://www.costaricantimes.com/sea-shepherd-sets-up-shop-in-costa-rica/21069>.

³⁸⁰ Enders, “Can Sea Shepherd Survive Its Own Success.”

³⁸¹ Ibid.

³⁸² Khatchadourian, “Neptune’s Navy.”

³⁸³ Tim Hume, “110-Day Ocean Hunt Ends with Sea Shepherd Rescuing Alleged Poachers,” CNN, <http://www.cnn.com/2015/04/07/africa/sea-shepherd-rescue-fishing-ship/index.html>.

³⁸⁴ Ron Colby, “Whale Warrior: Pirate for the Sea,” (2010).

³⁸⁵ Greene, “Another Materialist Rhetoric.” 36-38.

³⁸⁶ To be a bit more specific, Zarefsky asserts that argumentation is a way of knowing and rhetorical criticism is a specific mode of argumentation. David Zarefsky, “Knowledge Claims in Rhetorical Criticism,” *Journal of Communication* 58 (2008). 632.

³⁸⁷ Karlyn Kohrs Campbell, "Criticism: Ephemeral and Enduring," *Communication Education* 23, no. 1 (1974). 10.

³⁸⁸ Ibid. 11.

³⁸⁹ Ibid. 11.

³⁹⁰ Ibid. 11.

³⁹¹ Ibid. 10.

³⁹² Pezzullo, "Contextualizing Boycotts and Buycotts: The Impure Politics of Consumer-Based Advocacy in an Age of Global Ecological Crises." 125.

³⁹³ Harvey, *A Brief History of Neoliberalism*. 2-19.

³⁹⁴ For example, Paul Watson espouses a blatant neoliberal persona of the rugged individualist. And, in the processes of generating incredibly efficacious publicity, Sea Shepherd benefits greatly from its partnership with Discovery (even if Whale Wars produces a rather racialized propaganda). However, as evidenced by their courtroom struggles, Paul Watson and his Sea Shepherd activists also fail to procure the extensive privilege that is so often afforded to entities of aggregate corporate power by the neoliberal state.

³⁹⁵ For King, the efforts of "other-centered" peoples were crucial rebuilding a society that is devastated by "self-centered" individuals. King and King, *The Words of Martin Luther King, Jr.* 25. For more on King's rhetorical articulations of *communitas* see Howard-Pitney, *The Afro-American Jeremiad: Appeals for Justice in America*. 148-152.