

European Union Centre of Excellence
Conference: State of the European Union in Canada and the Asia Pacific
University of Victoria
Harry Hickman Building, Room A120
July 16-18, 2014

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Presentation

Introduction

This Presentation addresses, perhaps, the lowest point in the relations of the European Union (EU) with Canada.

Exactly tomorrow, July 19, 2014, will be a month since the Appellate Body of the World Trade Organization (WTO) issued a Report which concluded European Union's dispute with Canada over seal products import ban.

The dispute started in 2009 when the EU adopted a legislative scheme to prohibit marketing and imports of seal products from Canada, based on the view that cruelty to animals is an affront to the sense of morality in Europe.

But, in some cases, its rules aim to accomplish the exact opposite – to prevent spread of disease, for example.

International trade is an interplay of liberalizing rules and selectively used exceptions – such as the import ban, a closing of the EU market to the import of seal products from Canada.

Dispute Settlement under the WTO

The fundamental principle of international trade law under the WTO is non-discrimination. A country cannot discriminate between its trading partners, and it should not discriminate between its own and foreign products, services, and nationals.

WTO has a dispute settlement mechanism which secures enforcement of its rules.

Countries involved in disputes over their trade relations bring their issues to the dispute settlement body.

The first ruling is made by a Panel of independent experts in international economic law.

Panel examines evidence, and establishes facts.

Appeals are available to both sides in the dispute, but only on the points of law, or its interpretation – not facts.

Appeal can uphold, modify, or reverse Panel's findings.

The 'loser' has to follow the recommendation of the Report, or there are economic consequences.

EU –

Comparing Two Cruelties

Perception of the media in Canada is often that the EU is highly critical of it, and that it takes a higher moral ground with regard seal hunt.

The EU, on the other hand, genuinely believes it to be cruel, and this view, which has high level of public support in the EU, is expressed in its law forbidding trade in seal products obtained at such a cost.

The above is evidently a closed circle, an analytical dead-end.

I therefore use a comparative case of cruelty to another species – not seals – also traditionally hunted, in order to advance the analysis.

I compare seal hunt with guga hunt.

Guga is a fledgling of a gannet bird.

Both hunting methods used are traditional, both species hunted are used as food sources.

Both traditions are very old: seals have been hunted for at least some 4000 years, and guga have been hunted during the Iron Age.

Both of these traditional hunts are legislated, in their respective jurisdictions, as exceptions to otherwise illegal activities.

Both are poorly understood remnants of an almost extinct lifestyle of hunter-gatherers.

Both are cruel.

Neither is breaking any laws.

Traditional Seal Hunt

Young seals are killed with a traditional weapon, a heavy wooden club with a hammer head, and a metal hook at the other end.

The hammer is used to crush the seal's head, and the hook is used to remove the carcass.

Canadian legislation that regulates this activity is an extremely difficult read – I've found it difficult to read. A report stated: "Perceptions of seal hunting are often difficult even for experienced observers to interpret with accuracy." The report also states that the hunting is a traditional activity that has been practiced for centuries. The report also states that the hunting is a traditional activity that has been practiced for centuries. The report also states that the hunting is a traditional activity that has been practiced for centuries.

Dominant Agrarian v. Extinct Hunter-Gatherer Culture

Hunter-gatherer lifestyle is so disquieting to us because we belong to a different culture. We feel, and speak, from a dominant culture based on agrarian societal values, while these traditional hunts belong to the now almost extinct hunter-gatherer culture.

The best definition of culture remains the one by Edward Tylor: "Culture or civilization, taken in its broad, ethnographic sense, is that complex whole which includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by man as a member of society."

Anthropologist and specialist on hunter-gatherers, Professor Tim Ingold, explains how hunter's understanding of an animal is different from ours.

Hunter has an intimate knowledge of animal, its habits, moods, patterns of behavior.

Seal and guga hunts take place in extreme conditions which greatly affect behavior of animals. Given the amount of time and the effort, the skill necessary to obtain food in the harsh conditions, hunter-gatherer communities, developed unique sets of beliefs, ways of relating to each other, and to nature.

Hunters have to be observant, sensitive, and adaptable in order to hunt successfully.

This type of interaction is completely foreign to us.

Close contact between the hunter and the animal creates a strong bond.

Violent death, that we cannot even bring ourselves to watch, is but a small part of that relationship.

Westphalian sovereigns are unkind to all trans-boundary peoples: European Roma, or ‘travelers’, are a good example.

WTO is a typical byproduct of the Westphalian system of international relations.

WTO’s activities revolve around national borders and sovereignty as the organizing principles of global commerce, and law of trade.

The moral outrage, the concern for seals therefore only came to be known when seal products were halted at a sovereign border.

And that is why hardly anyone outside Scotland has even heard of guga hunt – the hunters of guga never tried to export their catch.

It is not that guga do not suffer, or that they suffer any less than seals.

Both suffer equally; cruelty is cruelty, it does not bare comparison.

Yet, there is no real forum to protect animals from cruelty internationally.

Just as there is no right to cultural survival, under the international law, for hunter-gatherers.

Both the hunters, and the hunted are unprotected.

Conclusion

There is much less, a forum to consider both with equal compassion, and to find a balance between the two.

WTO Panel, consisting of economic law experts, is certainly not the forum to reconcile these complex issues.

I conclude with a prophetic word of war