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Michael Strausz

**Cetaceans and Citizens:
International Norms and Debates about National Identity in Japan**

Michael Strausz

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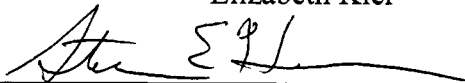


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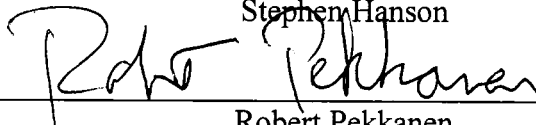
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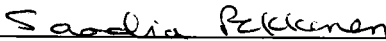
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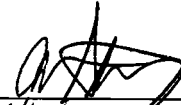


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Abstract

Cetaceans and Citizens: International Norms and Debates about National Identity in Japan

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This dissertation addresses the question of why states comply with some international norms more than others. I focus on Japan's high compliance with international norms regarding the human rights of foreign residents, moderate compliance with norms regarding whaling, and low compliance with norms regarding burden sharing in refugee admissions. I find that existing theories of International Relations and Japan Studies are ill equipped to explain these variations in compliance. Instead, I draw from scholarship on ideas and politics to argue that Japan's compliance with international norms is filtered through domestic elite debates about the nature of national identity. I argue that a state is most likely to comply with international norms when compliance is framed in a way that appeals to elites with differing conceptions of that state's national identity. My dissertation demonstrates the importance of domestic debates to international politics, and thus contributes to the emerging literature on the relationship between domestic politics and global governance.

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Preface

“Although non-tariff barriers have become an issue, even more than that the treatment of refugees has become an international stimulus. In Europe and America, there has been that kind of uproar even about whales and dolphins, to say nothing of the treatment of people, where the talk has been even more stinging. This is a problem of the face of Japan. We do not only face trade friction; we must think about humanitarian friction as well.”

—Nakasone Yasuhiro, shortly before becoming Prime Minister¹

Until the U.S. government sent “black ships” to Tokyo Bay in 1853, Japan had a policy of national isolation that severely limited contact between Japanese and the rest of the world. The black ships had a number of demands for the Japanese state; among those were concerns that American commercial ships—including whaling ships—should be allowed to call at Japanese ports, and concern with the fate of American castaways that washed up on Japanese shores (Duus 1997: 11-12). While Japanese officials capitulated to American demands, issues regarding whaling and Japan’s treatment of foreigners have continued to shape Japan’s interaction with the rest of the world into the 21st century. These issues became particularly important in the 1970s and 1980s, when Japan faced pressure to stop commercial whaling, improve the treatment of foreign residents within Japan, and admit substantial numbers of Indochinese boat people.

Japan responded differently to the pressure in each of these three issue areas. Specifically, Japanese policy regarding its foreign residents was largely compliant with international norms, while Japan’s whaling policy was somewhat compliant with international norms, and Japan’s refugee admission policy was not compliance with international norms. This dissertation addresses this disparity. More broadly, I address the question of why states comply with some international norms more than others. I argue that compliance with international norms is filtered through domestic elite debates about the nature of national identity. A state is most likely to comply with international

¹ *Yomiuri Shimbun*, January 4, 1982, Evening Edition, “Nanmin Gyōsei wo Kansatsu; ‘Reitan’ no Akuhyō Henjō he [An Inspection of Refugee Administration; A ‘Lukewarm’ Bad Return],” p. 2.

norms when compliance is framed in a way that appeals to elites with differing conceptions of that state's national identity:

Chapter 1 of this dissertation examines the puzzle in more detail, considering a number of explanations for compliance with international norms drawn from international relations theory and establishing the theoretical foundations of my own explanation. Chapters 2, 3, and 4 of this dissertation examine Japan's compliance with international norms regarding foreign residents, whaling, and asylum, respectively, and Chapter 6 considers the implications of this argument for international relations theory more broadly.

ACKNOWLEDGMENTS

I would not have been able to complete this dissertation without the help and support of many people – more than I will be able to name in this short section. My committee—Elizabeth Kier, Stephen Hanson, Robert Pekkanen, and Saadia Pekkanen—have been exceptionally patient and helpful, offering both encouragement and thoughtful criticisms throughout the writing process.

This dissertation benefited from close and careful readings from a number of people. Marie Anchooguy, David Leheny, Turan Kayaoglu, Yuko Kawato, Ken Haig, Brian Mello, Mary Alice Haddad, Michael Schechter, and Jeffrey Checkel all read selections of the dissertation and offered useful feedback. I also had the opportunity to discuss my dissertation with several helpful people, including Christina Davis, Kohno Masaru, Iwasawa Yuji, Shin Hae Bong, Iida Keisuke, Kashiwazaki Chikako, Ben Nyblade, Okubo Ayako, Yamawaki Keizo, and Machidori Satoshi. These conversations were very useful in shaping my ideas and helping me to plan my research. The participants at the 2007 Social Science Research Council's Japan Studies Dissertation Workshop, as well as the faculty mentors—Ellis Krauss, Michael Bourdaghs, Christine Yano, and Susan Burns—greatly helped me to sharpen my thinking on this project. Weekly encouragement from the G4: Lisa Glidden, Jason Scheideman, and Theresa Squatrito, was also indispensable.

Doing research in Japan presents a unique set of challenges. My experience in Japan was made much easier and better because of my affiliation with Professor Tsujinaka Yutaka at the University of Tsukuba. Professor Tsujinaka was extremely helpful in both mundane living tasks, such as setting up a place to live for me, and in offering very useful guidance for my research. In addition to Professor Tsujinaka, Otomo Takafumi made my stay in Tsukuba much more comfortable and offered valuable advice about the direction of my research.

This research benefited from tremendous cooperation from my interview subjects – government bureaucrats, members of parliament, activists, and academics who were extremely generous with their time and ideas. The Fulbright Commission also offered invaluable financial and logistic support for my research.

I would not have been able to conduct research in Japanese without the efforts of a large number of people, beginning with Eric Lindblom, my high school Japanese teacher, and including my Japanese teachers at Michigan State University, Davinder Bhowmik at the University of Washington, and my teachers at the Inter-University Center for Japanese Language Studies in Yokohama, Japan. Hironori Sasada, Ayako Echigo, and Daisuke Matsuno have all helped me with linguistic challenges that have arisen over the course of my research.

It is unlikely that I would have written this dissertation, much less entered graduate school to study Japanese politics, without the warmth and hospitality of my two host families – the Niinuma and Nejime families. It is hard to express how grateful I am to those families for opening their homes to me, and giving me a taste of Japanese family life. In recent years, two other families—the Matsuno and Fujii families—have also been wonderfully hospitable to me, and I am very grateful to them as well.

My friends and family have been a major source of support throughout my life as a student. My close friends outside of the world of political science—Brian Selfon, Seth Kessler, Dan Zimmerman, Abe Cambier, and Matt Rochkind—are the best possible friends one could ask for, and my parents, Brenda and Richard Strausz, as well as my sister, Jennifer Strausz, have been unusually supportive of all of my academic (and non-academic) endeavors. Finally, it is difficult to express the importance of the contribution that Kate has made to this project, and to my life inside and outside of academia. This dissertation is dedicated to Kate and my Grandpa Lloyd.

Chapter 1: Theories of International Norm Compliance

This dissertation addresses one of the oldest and most perplexing questions in the study of international politics: why do states comply with international obligations, including international laws, regimes, and norms, in the absence of a credible enforcement mechanism? After summarizing my puzzle, I discuss existing theories of norm compliance, including hegemonic stability theory, liberal institutionalism, and two variants of constructivism. While each explains some aspects of Japan's asylum, foreign resident, and whaling policies, none can account for the variation between these cases. I next outline an explanation for norm compliance that draws from scholarship on ideas in politics. I argue that a state complies with international norms when there is an elite consensus that compliance is consistent with that state's national identity. I subsequently undertake a cursory examination of the relationship between elite consensus and Japan's compliance with international norms. Finally, I outline my research design.

I. The Puzzle

This dissertation explains variation in Japan's compliance with international norms: during the 1970s and 1980s Japan complied with international norm regarding treatment of foreign residents, partially complied with international norms regarding whaling, and failed to comply with international norms regarding burden sharing in refugee admissions. Although foreigners in Japan, particularly Korean residents, continue to face discrimination, the changes in Japan's treatment of foreign residents in the 1970s and 1980s were remarkable: by the mid-1980s Japan had eliminated discrimination against non-nationals in public housing, national pensions, national health insurance, social welfare programs, and most types of public sector employment.

In some respects, Japan's approach to whaling mirrors its approach toward foreign residents. Despite the existence of a domestic market for whale meat, Japan drastically reduced whale allocations throughout the 1970s and 1980s, and in 1986 Japan formally ended the practice of commercial whaling. However, Japan continues its scientific whaling program in defiance of pressure from anti-whaling states and global

environmental groups.¹ The scientific whaling program is particularly interesting because it was adopted despite a small and weak whaling industry and a neutral, sometimes unsupportive fishing industry.

Finally, Japan has firmly resisted pressure from international institutions and transnational activists to admit more refugees. As of 2003 Japan had a total refugee population of 2,266 people, with an additional 428 people awaiting asylum hearings. No other G8 country has such a small refugee population. The average G8 country has over 240,000 refugees, and the average OECD country has over 84,000 refugees. In 2003 the ratio of refugee population to total population in Japan was less than 1% of that ratio in G8 countries and OECD countries.² Japan has admitted relatively few refugees, both in terms of its economic size (i.e. compared with other G8 and OECD countries) and in terms of its population size.

II. A Note on International Norms

I follow Finnemore and Sikkink in defining an international norm as “a standard of appropriate behavior for actors with a given identity” (1998: 981). In any issue area in the international arena, there are multiple and contradictory standards of appropriate behavior. For example, transnational human rights groups and transnational religious organizations frequently have different standards of appropriate behaviors for a given state. Thus, to add parsimony and sharpen my analysis, I focus on a particular subset of norms – norms with the support of the vast majority of the most powerful states in the international system (currently Western industrialized democracies) and a major transnational advocacy network (Keck and Sikkink 1998). This particular set of norms is theoretically useful because neo-realists, neo-liberal institutionalists, and constructivists would all agree that, *ceteris paribus*, states are likely to comply with norms that have the

¹ The annual catches under Japan’s scientific whaling program are quite small when compared with Japan’s commercial whaling catches from the 1960s and 1970s. This is discussed in more depth in Chapter 3.

² Data from Organization for Economic Cooperation and Development, “Total Population for OECD Countries,” August 24, 2005, <http://www.oecd.org/>, accessed September 6, 2006; UN High Commission on Refugees, “Asylum-Seekers, Refugees, and Others of Concern to UNHCR, end-2003,” 2003, <http://www.unhcr.org/cgi-bin/texis/vtx/>, accessed June 9, 2004; U.S. Census Bureau, International Database, August 24, 2006, <http://www.census.gov/ipc/www/idbnew.html>, accessed September 6, 2006.

support of both the most powerful states in the international system and transnational advocacy networks. Thus, I am able to hold “norm type” constant, and focus on other factors which may influence a state’s compliance with a particular norm.

I focus on three norms: the norm proscribing discrimination against non-citizen minorities, the norm against whaling, and the norm that states should do what they can to help refugees. All of these norms meet the criteria established above. The belief that non-citizen residents of a state are entitled to legal protections against discrimination is common in the industrialized world (Soysal 1994), and has the support of a large network of transnational human rights groups. Moreover, while there are three industrialized states that object to the norm against the killing of whales (Japan, Iceland, and Norway), the vast majority of the industrialized world agrees that people should not kill whales, with one exception; indigenous people are permitted to kill whales for non-commercial use according to their cultural traditions. The norm against non-indigenous commercial whaling also has the support of a vast network of transnational environmental groups, including Greenpeace and the World Wildlife Fund. Finally, the vast majority of advanced industrialized countries settle tens of thousands of refugees, and norms regarding the treatment of refugees have the support of a large number of transnational human rights groups, including many of the same groups that support norms regarding the treatment of non-citizen residents.

III. Alternative Explanations

A. *Hegemons and Reactive States*

When international norms appeared in mainstream American international relations scholarship, they were initially given little importance; they were simply an aspect of “international regimes,” a concept that gained currency in the 1980s. In Krasner’s oft-cited formulation, regimes are “sets of implicit or explicit principles, *norms*, rules, and decision making procedures around which actors’ expectations converge in a given area of international relations” (Krasner 1983: 2, emphasis added). During the neo-realism/neo-liberalism debate of the 1980s, scholars developed two tools

to explain compliance with regimes: hegemonic stability theory and liberal institutionalism.

Hegemonic stability theory is usually traced to Gilpin (1975) and Kindleberger (1971), and it suggests that states comply with international regimes when a powerful state—a hegemon—compels them to. Hegemonic stability theory shares realist assumptions: states primarily aim to maximize their security and power. Grolin (1988) uses hegemonic stability theory to explain the strength of the oil spills regime; he argues that American power explains regime compliance. Similarly, Andresen (2002) argues that Japan has complied with the whaling regime because of U.S. hegemony; American pressure caused Japan to limit its whale catches and, finally, to give up commercial whaling altogether.³

Hegemonic stability theory has been roundly critiqued, but few IR scholars deny its claim that a hegemon can force state compliance. In Japan Studies, scholars of Japanese foreign policy frequently describe Japan as a “reactive state” that makes its foreign policy in response to pressure from America and, to a lesser extent, Europe (Calder 1988: 519-520).

Calder argues that the fragmented nature of the Japanese state and Japan’s “unusual sensitivity” to interest group pressure caused Japan to act like a reactive state even in the 1970s and 1980s, when the structure of the international system created incentives to take a more active foreign policy (1988: 528-31). Other scholars have used the notion of the reactive state to explain Japan’s economic policy in the 1980s and 1990s (Grimes 2001). In short, although they use different language from Gilpin and Kindleberger, scholars such as Calder and Grimes suggest that hegemonic stability theory has the ability to explain Japan’s compliance with international norms.

This theory suggests the following hypothesis:

H1—Hegemonic Stability Theory Hypothesis: States comply with international norms because of pressure from the hegemon.

³ Andresen claims that American hegemony was more effective in some cases than in others, but he uses U.S. hegemony to explain the compliance of Japan and several other states.

A cursory glance at the cases suggests that hegemonic stability theory will have a difficult time explaining variation in Japan's compliance. While Andresen (2002) is right that U.S. pressure was an important factor in getting Japan to reduce its annual whale catches in the 1970s and agree to a moratorium on commercial whaling in 1986, U.S. pressure has not convinced Japan to end its scientific whaling program. Moreover, in spite of criticism from President Carter regarding Japan's comparatively small quotas of Indochinese boat people in the 1970s and 1980, Japan made only minor changes to its asylum policy (Mukae 2001: 113).⁴ Finally, Japan made substantial changes in its treatment of foreign residents in the absence of pressure from the United States.

B. Liberal Institutionalism

Liberal institutionalist explanations for regime compliance are based on the central insight that international institutions, and the iterated games they create, make compliance more likely (Keohane 1984: 13). If two states know that they will interact again, then defection becomes more costly and cooperation becomes more likely. Liberal institutionalists also suggest that the monitoring and enforcement capacities of international regimes affect compliance. This sort of argument has been made about a variety of international institutions including the international oil pollution regime (Mitchell 1994), the ozone-layer protection regime (Victor 1998), and the European Union (Tallberg 2002), and scholars have also noted the ability of Systems for Implementation Review of international agreements to facilitate compliance by increasing monitoring and enforcement (Victor, Raustiala, and Skolnikoff 1998). In short, liberal institutionalists claim that the monitoring and enforcement mechanisms of international institutions can make compliance with international regimes rational.

This theory suggests the following hypothesis:

H2—Liberal Institutionalism Hypothesis: The monitoring and enforcement capacities of international institutions cause state compliance.

⁴ Also see Kawaguchi Hiroyuki, *Yomiuri Shimbun*, June 19, 1979, "'Nanmin' Hôteokemai; 'Seiji Ego' to Hinan ha Yōi ['Refugees' Won't Continue to be Ignored; Criticism of a 'Political Ego' is Easy]"; p. 5; *Nihon Keizai Shimbun*, June 14, 1979, Evening Edition, "Nihon no Nanmin Taisaku wo Hinan [Criticism of Japan's Refugee Policy]," p. 2.

A cursory examination of Japan's compliance with international norms suggests that liberal institutionalism may be more helpful than hegemonic stability theory in explaining Japan's policymaking. Japan's foreign resident, whaling, and asylum policies do not violate the rules of international institutions. Before Japan ratified the UN Convention on the Status of Refugees, the Japanese Diet and various bureaucratic agencies of the Japanese state engaged in substantial discussion about the legal changes that such ratification would entail, and upon ratification of the treaty made a number of significant law changes. Similarly, although Japan's scientific whaling program is frequently criticized in the International Whaling Commission (IWC), under the foundational treaty of the IWC states are permitted to establish lethal scientific whaling programs at their own discretion. Moreover, Japan has accepted and obeyed the moratorium on commercial whaling, thus virtually eliminating the domestic whaling industry. Finally, Japan has substantially altered how it treats foreign residents in order to comply with its perceived obligations under the UN Convention on the Status of Refugees (herein referred to as the Refugee Convention), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

However, international institutions and treaties are peculiar in that states are able to choose both which treaties bind them and how to interpret those treaties. International judicial bodies such as the International Court of Justice have relatively limited jurisdiction and virtually no enforcement power. Thus, liberal institutionalism leaves several important questions unanswered regarding Japan's compliance with international norms. Why did Japan choose to ratify the ICCPR and ICESCR in 1979 and the UN Convention on the Status of Refugees in 1981? Why did Japan interpret those treaties the way that it did? Why did Japan accept the moratorium on commercial whaling in 1984? Why does Japan continue to remain a member of the IWC in spite of the unlikelihood

that the IWC will allow Japan to resume commercial whaling in the near future?⁵ Liberal institutionalism, with its assumption of states as unitary actors, does not give us the tools to address these questions.

C. *Constructivism and Persuasion*

The “constructivist turn” of the 1990s has brought the study of international norms to the forefront of international relations theory. Constructivism emerged as a critique of the dominant theories of the 1980s: liberal institutionalism and realism. The constructivist critique focused on the shared assumption of liberal institutionalism and realism that states respond to the anarchic international system in a manner that is consistent over time and independent from the way those states understand the world. In Wendt’s words:

There is not 'logic' of anarchy apart from the practices that create and instantiate one structure of identities and interests rather than another; structure has no existence or causal powers apart from process. Self help and power politics are institutions, not essential features of anarchy. *Anarchy is what states make of it* (1992: 395, emphasis in original).

States develop intersubjective understandings about the meaning of key concepts such as “anarchy” through social interaction, and those understandings drive policymaking decisions.

Wendt (1987) argues that through interaction states construct the nature of the international system, and that the nature of the international system also shapes state identity (and therefore behavior). The latter argument, that the nature of the international system shapes state identity and behavior, is the most important claim for this dissertation; I am explaining changes in state behavior rather than changes in the nature of the international system. Constructivists have noted a number of mechanisms whereby the international system—in particular, international norms—can shape state identity and

⁵ Although the majority of states at the 2006 IWC meeting were in favor of the resumption of commercial whaling, the pro-whaling states are still far from the $\frac{3}{4}$ majority that is required to amend the schedule to allow for the resumption of commercial whaling.

behavior. This dissertation will focus on two such mechanisms: persuasion and internalization.

The persuasion argument draws on Jurgen Habermas's scholarship on public discourse to argue that dialogue with international society can cause compliance with international norms. For example, Risse, Ropp and Sikkink's edited volume on international human rights norms (1999) suggests that once a state has ratified human rights treaties, the way that the state interacts with international society changes. The state can no longer claim that international human rights norms are simply a manifestation of western imperialism. Instead of arguing with human rights NGOs and IGOs about the legitimacy of human rights norms, the state begins to argue about whether its policies comply with those norms. This argumentation sometimes draws state leaders into "true dialogue" with their critics—in which actors' preferences are malleable—and thus changes in behavior become more likely (Risse 1999: 530-31).

Scholars also frequently reference scientific discourse as a powerful tool for creating compliance with international norms through persuasion. This is particularly the case when science is widely seen an independent and objective source of knowledge; Skjærseth (1998) argues that the independence of science has been a crucial factor in determining compliance with international obligations in the North Sea. Mitchell (1998) examines the discourse of the International Whaling Commission, and argues that the commission was most successful in convincing states to restrict their whale catches when its quotas were based on a scientific consensus: from the late 1960s until the advent of the moratorium on commercial whaling in 1982. Prior to the late 1960s the IWC was a "whalers club," where quotas basically codified existing practice and therefore were not meaningful. The 1982 moratorium on commercial whaling—a policy with "little scientific rationale,"—marked the beginning of the era of moral management, when, instead of scientific consensus, IWC declarations were based on the idea that whales have an inherent worth (Mitchell 1998: 144). This damaged the legitimacy and persuasive power of the IWC, and decreased state compliance with anti-whaling norms.

The Constructivism-Persuasion argument suggests the following hypothesis:

H3a—Constructivism-Persuasion Hypothesis: Dialogue with international society draws states into compliance with international norms.

Constructivism-persuasion suggests two explanations for Japan's compliance with international norms. First, Japan made substantial changes to the legal treatment of foreign residents after ratifying of the Refugee Convention, the ICCPR, and the ICESCR. This suggests that Japan took its rhetorical position in support of human rights seriously, and it is conceivable that this rhetorical position altered the nature of Japanese dialogue with international society regarding the treatment of foreign residents. Second, Japan began its scientific whaling program in the period when Mitchell argues that scientific management at the IWC was replaced with moral management (1998: 144). As the link between scientific consensus and international norms against whaling weakened, Japan became less willing to comply with those norms. Indeed, when I explained Mitchell's argument to a bureaucrat who has played a major role in Japan's delegation to the international whaling commission, he indicated that he thought Mitchell's was a fair summary of the history of the IWC.⁶

However, constructivism-persuasion has two potential problems in explaining Japan's compliance with international norms. First, arguments focused on the discursive consequences of treaty ratification cannot tell us why a country ratified a treaty when it did. Thus, like liberal institutionalism, constructivism-persuasion has difficulty explaining why Japan ratified the ICCPR, the ICESCR, and the Refugee Convention. Second, Mitchell's argument about the dominance of scientific management in the International Whaling Commission in the 1970s overstates the extent of scientific consensus. During annual IWC general meetings in the 1970s Japanese leaders regularly argued that quota reductions were *not* based on science. At the conclusion of the 1977 IWC general meeting the head of the Japanese delegation, Yonezawa Kunio, argued that at the next year's meeting he would have to better employ scientific discourse to persuade

⁶ Author's interview with subject W45, March 28, 2006, Yokohama, Japan.

the body against radical reductions in quotas.⁷ Moreover, a newspaper opinion piece from 1977 even argued that, in private, delegates from anti-whaling countries had admitted that proposals to substantially reduce whaling were not based on science, but were meant to appease anti-whaling domestic constituencies.⁸

D. Constructivism and Norm Internalization

Other constructivist scholars have focused on domestic politics, arguing that links between international society and elements of states and/or elements of domestic societies can make states more likely to comply with international norms. Law scholars such as Koh have focused on the relationship between internalization of norms into domestic legal systems and norm compliance (1997: 2602), and political scientists like Gurowitz (1999) have focused on how international norms can empower societal actors in their attempts to compel states to comply. In discussing improvements to the legal status of migrants and the Korean minority in Japan, Gurowitz argues that international norms “have provided pro-immigrant actors with a tool to use in their arguments against the government in the face of domestic resistance to change” (1999: 415). Similarly, Chan-Tiberghien (2004) argues that Japanese women’s and children’s groups have successfully employed international human rights frames to bring about domestic political and legislative changes. These groups have effectively used those frames both in educational efforts and in efforts to persuade and form alliances with politicians (2004: 4-5). Scholars have also made this kind of argument about Japan’s compliance with international norms regarding development aid (Reimann 2003).

This variant of constructivism suggests the following hypothesis:

H3b—Constructivism-Internalization Hypothesis: A state is more likely to comply with international norms when elements of state and/or

⁷ *Asahi Shimbun*, June 25, 1977, “Kagakuteki ni Sekai Nattoku ga Hitsuyō [Scientific World Persuasion is Necessary],” p. 9

⁸ Kobayashi, *Asahi Shimbun*, June 25, 1977, “Zenakuron ni Yowai Shigenron [The Discourse of Good and Evil is a Weak Resource Discourse],” p. 4. I don’t know whether the this claim is true (and it is not possible to verify), but even if anti-whaling states did not accept Japan’s arguments based on the language of science, it is clear that Japan was making such arguments in the 1970s.

society establish links with international society and use those norms to demand change.

The internalization variant of constructivism has three problems in explaining Japan's pattern of compliance with international norms. First, Japanese courts are extremely reluctant to invoke international human rights laws in their rulings (Iwasawa 1998). This is particularly the case in regards to international human rights law regarding protection of aliens; Hamano notes that, when discussing rights for foreign residents, Japanese courts "either assume that ICCPR guarantees are identical to Japanese Constitutional rights or they apply Japanese doctrines for determining the scope of constitutional rights" (1999: 471).⁹ In short, Japanese courts have been reluctant to rule that discrimination against aliens violates Japan's international legal obligations, and yet Japan moved to outlaw such discrimination anyway.

Second, while both refugee and foreign resident groups have been involved in Japanese domestic politics, refugee groups have more effectively gained the support of transnational actors, including transnational NGOs such as Amnesty International and Inter-Government Organizations such as the UN High Commission on Refugees (which has an office in Tokyo). The success of transnational refugee groups suggests that international norms regarding refugees should be more internalized in Japanese domestic politics than international norms regarding the treatment of foreign residents. However, Japan continues to admit few refugees while substantially changing its treatment of foreign residents. Third, in spite of an almost total lack of domestic support in Japan for the anti-whaling cause, Japan has accepted the moratorium on commercial whaling, effectively ending its domestic whaling industry.

IV. Contested National Identity

This section outlines my argument about contested national identity. I argue that compliance with international norms is most likely when an elite or a group of elites

⁹ Hamano notes that Japanese courts showed signs of becoming more willing to rule against the government on human rights issues beginning around 1993 (Hamano 1999: 473-480).

successfully frames compliance as consistent with multiple elite conceptions of national identity. Thus, my key independent variable is an elite consensus that norm compliance is consistent with national identity (not elite consensus about national identity itself). This section is divided into four parts. First, I explain the theoretical background of my argument. Second, I discuss the relationship between my argument and the effort to bring domestic politics “back in” to international relations. Third, I examine the nature of elite debates about national identity and fourth, I discuss the mechanisms through which elite consensus break down and are reestablished.

A. *Ideas and Politics*

Scholars have recently attempted to fuse insights from rational choice scholarship with insights from scholarship on the role of ideas in politics. In contemporary political science, this line of scholarship has been most prominently adopted in Peter A. Hall’s edited volume on the role of Keynesianism in policymaking (1989) and Judith Goldstein and Robert O. Keohane’s edited volume on the relationship between ideas and foreign policy (1993). However, the effort to develop a theory that emphasizes both the importance of rational calculation and ideational factors in politics is at least as old as the scholarship of Max Weber, who argues:

Not ideas, but material and ideal interests, directly govern men’s conduct. Yet very frequently the ‘world images’ that have been created by ideas have, like switchmen, determined the tracks along with action has been pushed by the dynamic of interest (1975 [1946]: 280).

In the language of contemporary rational choice theory, Weber argues that, while people are generally rational actors, they use ideationally derived “world images” to decide which ends to pursue in the first place. My argument is rooted in this theoretical tradition. Like the contributors to Hall and Goldstein and Keohane’s edited volumes, I assume that, while actors rationally pursue goals, Weberian world images determine those goals.

B. Domestic Politics: Rationality and Beyond

Like constructivism, rational choice institutionalism in international relations began with a critique of the dominant international relations theories of the 1980s: neo-realism and neo-liberalism. Rational choice scholars attacked the shared assumption of neo-realism and liberal institutionalism that states are unitary actors. Milner suggests that the unitary actor assumption—that the state should be treated as a “black box”—has hurt international relations; it has limited dialogue with scholars in other areas of political science because it treats the anarchic international realm as fundamentally different from hierarchical domestic politics (1998: 764). As an alternative, Milner favorably points to an emerging group of rational choice scholars who treat states as a collection of rational individuals that interact in different institutional settings. The shape of these institutions and the preferences of these individuals explain foreign policy outcomes (1998: 779).

Milner and other rational choice institutionalists have made an important push toward taking domestic politics seriously in international relations. However, with a few notable exceptions (discussed below), international relations scholarship has not moved to open the black box of the state in regards to ideas. To borrow from Weber’s train analogy, rational choice institutionalists have focused on the trains of domestic politics—pushed, as Weber says, by rational calculation—at the expense of the ideationally-driven switchmen. Moreover, those scholars of international relations who do acknowledge the importance of ideas largely focus on them either as attributes of states—for example, Duffield’s (1999) argument that the antimilitarism and multilateralism which underlie Germany’s national political culture determine Germany’s defense policy—or as attributes of the international system (i.e., international norms). However, this focus is unnecessarily restrictive. Treating politically consequential ideas as attributes of states or the international system ignores domestic struggles over these issues – struggles that can also have important political consequences.

C. *Debates about National Identity and their Political Consequences*

Once nationalism is constructed, it is difficult to control. The American militia movement slogan, "I love my country, but I hate my government," nicely illuminates this difficulty; the American militia movement sees the American state (and indeed, the idea of government in general) as fundamentally contrary to the most important aspects of American national identity. This sort of argument is not unique to America; once a national myth has been constructed, citizens sometimes use that myth to critique and challenge the existing government. Moreover, tensions about the nature of national identity can have fault lines other than the line between state and society. Conflicts within societies, and within states, can arise in regards to the issue of national identity. In countries including Great Britain and France, there is intra-society tension and intra-state tension about whether the French and British national identities are primarily ethnic or cosmopolitan. In America, state and society are also divided over the question of whether American identity is fundamentally Christian or secular.

These debates about national identity have political consequences; they influence how states deal with one another, and with international norms more broadly. Lynch (1999) shows how debates about Jordanian national identity influence Jordan's foreign policy, and Rathbun (2004) demonstrates that domestic debates about national interest and the appropriateness of force, as played out in party politics, have influenced European states' positions on peacekeeping in the Balkans. Parsons (2003) suggests that French debates about French and European identity affect France's policy toward Europe, and ultimately the EU's fate. Koh (1988; 1997: 2646-48) suggests that American debates about the relationship between international and domestic law influenced the American approach to the Anti-Ballistic Missile Treaty during the Reagan and George H. W. Bush administrations.

Differing elite conceptions of national identity are not always irreconcilable. If they were, it would be difficult to govern effectively. The most effective long-term political solutions are those that can appeal to multiple elite conceptions of national identity at the same time. When an elite or a group of elites propose such a political

solution, it is likely that the solution will become the subject of an elite consensus. For example, the idea that the American military should continue to play a major role in world affairs remain extremely influential among elites in American politics because it appeals to those whose vision of American national identity suggest a definition of national interest primarily focused on protecting national security, narrowly construed, and those whose vision suggests a definition of national interest that includes the spread of American values and institutions abroad. Even elite critiques of particular military actions generally accept the premise that a strong and active U.S. military is desirable; some argue that the large numbers of troops in Iraq prevents the United States from deploying troops to other trouble spots which have more value in terms of national security or the spread of American values.

D. The Establishment and Breakdown of Elite Consensus

The establishment of elite consensus about norm compliance is most likely when a leader or a set of leaders proposes a solution that appeals to elites with different conceptions of national identity. However, even long-term political solutions that were initially implemented because of an elite consensus will not last forever. A consensus about long-term political solutions is likely to breakdown when those political solutions are viewed as leading to undesirable outcomes (Legro 2000a: 420). It is most likely that elites will come to view a former consensus solution as causing an undesirable outcome when the consensus was developed around the empirical claim that the solution would prevent that undesirable outcome. For example, the American consensus about protectionism as an appropriate strategy for promoting economic health broke down in the 1930s because, despite the existence of high trade barriers, the Great Depression continued (Legro 2000a: 427).

Scholars have used this kind of analysis to explain fundamental ideational changes in the social sciences, including the failure of pre-Keynesian theories among economists (See Hall 1989, particularly the chapter by Salant). Similarly, Legro (2000b) argues that isolationism lost its influence in postwar American politics because after

World War II isolationists lacked the theoretical tools to explain recent American history.

This argument about contested national identity suggests the following hypothesis:

H4—Contested National Identity Hypothesis: States are more likely to comply with international norms when there is an elite consensus that compliance is consistent with national identity.

Table 1.1 summarizes the five alternative explanations for Japanese compliance with international norms.

Table 1.1: Theories of International Norm Compliance

THEORY	KEY INDEPENDENT VARIABLE CAUSING NORM COMPLIANCE
Hegemonic stability theory/reactive state theory	Pressure from hegemon/U.S.
Liberal institutionalism	International agreements and institutions
Constructivism—Persuasion	Dialogue
Constructivism—Internalization	Norms empower elements of domestic state and society
Contested National Identity	Elite consensus that compliance is consistent with national identity.

V. Contested National Identity in Japan

In a comparative survey chapter on Japanese nationalism, Tipton summarizes the history of Japanese nationalism:

Japanese nationalism changed, from a state-centred instrument of a modernising elite in the late nineteenth and early twentieth centuries, to an identity contested among leaders who aimed to mobilise larger masses of people in the 1920s and 1930s, and finally to a diffuse debate over the 'essence' of Japanese culture in the decades after the Second World War (2002: 146).

What is most interesting about Tipton's account of Japanese nationalism is the last phase; debates about what it means to be Japanese are the central feature of postwar Japanese

nationalism.¹⁰ Once Japanese leaders constructed a national identity during the Meiji Restoration, they ultimately lost control of that identity; the people who were told that they were Japanese also came to have strong feelings about what that meant. This is not unique to Japan; Tipton stresses that nationalism evolved similarly in western countries.

In Japan, one of the most important debates about national identity is between those who believe that Japan should “leave Asia and enter Europe,” in the words of the Meiji-era slogan, and those who believe that Japan has a unique culture that should be preserved. This debate is not a new one; a version can be found in the arguments between the westernizing Min’yūsha and the preservationist Seikyōsha beginning in the 1880s (Pyle 1969). A version of this debate can also be found in large numbers of non-western countries. In Turkey, for example, the debate between westernization and cultural preservation has shaped Turkey’s response to the European Union.¹¹ Before discussing the policy implications of this debate, it is important to note that these two ideas—westernization and preservation—are not always in conflict. In fact, Meiji state builders sought to create traditions for the Japanese nation and synthesize those traditions with “western learning.” However, it is not always possible to harmonize preservation and westernization, and the tension between these two ideas can have political consequences. These consequences are evident in a number of policy areas, including Japan’s leisure policy.

Leheny (2003) examines the Japanese government’s comparative leisure reports and notes that:

Even as... officials consider what 'normal' people are like in other nations, no one either believes or wants the Japanese to simply become American, French, or Australian. Instead, they have to contend with two ways of thinking about what Japan is: an advanced industrialized nation like any other and yet a unique place populated by a unique people (2003: 14).

¹⁰ One of the key cleavages regarding national identity in Japan is in regards to the extent to which national identity has an ethnic component. Interestingly, proponents of the ethnic nature of identity do not only come from the political right; there are major strands of leftist thought that are based on ethnic nationalism (Doak 1997; Wilson 2002: 18).

¹¹ I’m grateful to Brian Mello for this insight.

These reports shape how the Japanese government approaches issues with major economic implications, such as the length of the Japanese workweek. In the wake of two particular government reports, Japan amended the Employment Law, reducing the workweek from forty-eight to forty hours (Leheny 2003: 113-114).

Leheny does not claim that Japanese policymakers are idealists, designing leisure policy to satisfy their images of what Japan should be and without regard for policies' costs and benefits. He notes that bureaucrats supported the "10 million program," a policy that encourages 10 million Japanese to vacation abroad annually, because it benefited them in terms of "retirement" positions, and because it increased their agencies' budgets (2003: 171-72). However, bureaucrats were not free to pursue their self-interest however they pleased. The dominant sets of ideas about Japanese national identity set the tone for the kinds of proposals that would have been acceptable (and possibly even for the kinds of proposals that occurred to bureaucrats). It would be difficult to imagine contemporary American bureaucrats successfully pushing an equivalent of the 10 million program; not because they might not benefit from one, but rather because the American belief in free markets, whatever its limitations in practice, limits such forms of national-level policymaking aimed at shaping the way people recreate (Leheny 2003: 35-36). The actors Leheny identifies are self-interested, but they exist in a social context with a limited set of ideas about national identity.

Noting that there are debates about the nature of Japan's identity does not explain why certain policies are adopted. Why did Japan obey international pressure and decimate its whaling industry in the 1970s and 1980s, and then begin its scientific whaling program in 1988? Why did Japan respond to international norms by substantially improving the treatment of resident foreigners in the 1970s and 1980s (at high cost) while remaining a major outlier among industrialized states in terms of refugee admissions?

Regarding Japan's foreign resident and asylum policies, a group of Japanese elites devised a solution that appealed to those who thought Japan should westernize and those who thought Japan should preserve its culture. Until the 1970s, Japan's approach to

foreign residents was based on an “exclusionary mentality”; the idea that foreigners don’t belong in Japan, and should be encouraged to leave (Yamawaki 2001: 298). This approach led to the denial of many social services and employment opportunities to foreign residents, an extremely restrictive immigration policy, and virtually no asylum policy. The approach appealed to cultural preservationists because it dovetailed well with conventional notions about Japanese culture: that homogeneity is one of its most important features.¹² Moreover, in 1952, when Japan became a formally independent nation again, it was not clear that there was a tension between Western practice and an exclusionary immigration policy; many Western states also had restrictive definitions of citizenship and policies that substantially limited the rights of non-citizens (Soysal 1994).

In the Japanese case, three contradictions within the exclusionary mindset became apparent in the 1970s. First, policymakers came to see a fundamental tension between two of its assumptions: the assumption that “ethnic homogeneity is an important component of Japan’s identity” and that “foreign residents will return to their country of origin.” As Japanese leaders realized that most Koreans would not return to Korea—as the percentage of Koreans born in Japan and the numbers of those who didn’t speak Korean continued to grow—those leaders came to think that the existence of a long-term resident minority group without Japanese ethnicity posed a substantial challenge to Japan’s claims to be an ethnically homogeneous nation. Second, Western countries began to grant more and more rights to foreign residents (Soysal 1994). The gulf between Western and Japanese immigration policies increasingly posed a challenge for those who thought that Japan should “leave Japan and enter Europe.” Third, court decisions in favor of foreign rights, coupled with local government initiatives that also favored foreign rights, began to challenge the Japanese bureaucracy’s dominance over social change in Japan. This is something that the Japanese bureaucracy has generally aimed to protect (Upham 1987).

¹² Many scholars have recently demonstrated that claims for Japanese homogeneity are vastly overstated and overlook minority groups such as Koreans, Chinese, burakumin (descendants of Japan’s lowest castes from the Tokugawa period), and Ainu (an indigenous minority from Hokkaido, Japan’s northern island) (Lie 2001). However, the idea of homogeneity remains extremely important in politics and in popular discourse.

Problems with the existing elite consensus are not sufficient to advance a new elite consensus: a new framework must be proposed that policymakers find satisfactory. In the case of Japan, a young bureaucrat in the Bureau of Immigration of the Ministry of Justice, Sakanaka Hidenori, proposed such a framework. In an essay that won a Bureau of Immigration essay contest in 1975, Sakanaka argued that, if Japan continued down its existing path, it would face a foreign people's problem, as Koreans in Japan would become increasingly unhappy with their lack of rights. To avoid this problem, and promote the assimilation of Koreans, Japan should grant human rights to foreign minorities (Sakanaka 1999 [1975]).

This argument succeeded because it appealed to those who wanted Japan to westernize and those who wanted to preserve Japanese culture. Sakanaka's argument appealed to those supporting westernization because it emphasized the promotion of human rights. The argument appealed to those wanting to preserve Japanese culture because it emphasized promoting assimilation and avoiding minority people's problems. Ultimately, Japan based its new immigration policy—what Yamawaki calls the “1982 system” (2001: 290)—on the idea of promoting human rights in order to promote assimilation. When operating under this system, it makes sense to both promote human rights for existing foreign minority groups while avoiding the influx of new groups of foreign minorities, as such groups would be difficult to assimilate.

In the case of whaling, in the 1970s and 1980s leaders were not able to devise a satisfactory solution Japan's whaling policy. A group of bureaucrats in the Ministry of Foreign Affairs, concerned with Japan's diplomatic and trade relations with Western states and with the interests of Japan's fisheries industry, succeeded in getting Japan to end its commercial whaling program. However, another group of bureaucrats in the Fisheries Agency of the Ministry of Agriculture, Forestry, and Fisheries, were able to begin Japan's scientific whaling program, in the face of U.S. sanctions, because of their strong belief in the importance of whaling to Japan's traditional culture. These bureaucrats have become so committed to their belief in the importance of whaling to Japan's traditional culture that they have protected Japan's tiny whaling industry at the

expense of Japan's much larger fishing industry and Japan's international image more broadly.

VI. Research Design

A. *Sources of Evidence*

The hypotheses that this dissertation examines make claims about both elite rhetoric and tangible political processes. In order to evaluate claims about elite rhetoric, I examined government publications as well as newspaper reporting, opinion pieces, and editorials. I also conducted interviews with key policymakers and activists. In order to evaluate claims about tangible political processes, I traced the process through which policy decisions were made in each of my cases through the examination of newspaper accounts, government and NGO reports, English and Japanese language secondary scholarship, as well as interviews.

B. *Case Selection*

I consider three cases: the treatment of foreign residents (with high compliance), whaling (with moderate compliance), and asylum (with low compliance), and I focus on the 1970s and 1980s, when Japan's whaling and foreign resident policies were both altered to increase compliance with international norms, and when Japan faced its first refugee crisis of the postwar period – the Indochinese boat people crisis. These three cases have clear variation on the dependent variable, and, because they all involve the same country and the same time period, I can control for country-level and time-based effects. In other words, I can rule out explanations that argue that differences in domestic political structures or political leadership cause regime compliance. This is not to say that those variables might not matter as well, but my case selection allows me to bracket those variables and focus on a range of other possible independent variables.

C. *Tests of Hypotheses*

This section will consider observable implications for each hypothesis and spell out empirical tests of those implications.

H1—Hegemonic Stability Theory Hypothesis: States comply with international norms because of pressure from the hegemon.

Hegemonic stability theory has the following observable implications:

1. This hypothesis suggests that, prior to Japanese compliance with international norms, U.S. and Japanese leaders should engage in dialogue about Japan's compliance.

If hegemonic stability theory provides an accurate description of Japan's compliance, then I expect to find that U.S.-Japan dialogue preceded compliance.

2. This hypothesis suggests that Japanese compliance with international norms is more likely when the U.S. makes credible threats to punish non-compliance.

If hegemonic stability theory is correct, I expect to find that credible American threats to punish non-compliance accompany compliance. A threat will be viewed a *credible threat* when the threatening country has the material means to carry out their threat and when recent history suggests a political will to carry out that kind of threat.

3. This hypothesis suggests that Japanese compliance with international norms is more likely when the when the threatened punishment is more severe.

If hegemonic stability theory is correct, then I expect to find a correlation between the degree of severity of threatened punishment for non-compliance and the degree of Japanese compliance. This hypothesis suggests that American pressure should have been the strongest in regards to treatment of foreign residents (where compliance was highest), followed by whaling, and then burden sharing in refugee admissions.

H2—Liberal Institutionalism Hypothesis: The monitoring and enforcement capacities of international institutions cause state compliance.

Liberal Institutionalism has the following observable implications:

1. This hypothesis suggests that Japan is more likely to comply with international norms when international institutions supporting those norms have larger capacity to monitor compliance.

If liberal institutionalism is correct, then I expect to find a correlation between the monitoring capacity of international institutions and Japan's compliance with the norms that those international institutions support. This hypothesis suggests that international institutions monitoring the treatment of foreign residents should have the most substantial monitoring capacity, followed by international institutions to monitor whaling and international institutions to monitor asylum.

2. This hypothesis suggests that Japan is more likely to comply with international norms when international institutions supporting those norms have greater capacity to sanction non-compliance.

If liberal institutionalism is correct, then I expect to find that there is a correlation between the sanctioning capacity of international institutions and Japan's compliance with the norms that those international institutions support.

H3a—Constructivism-Persuasion Hypothesis: Dialogue with international society draws states into compliance with international norms.

Constructivism-persuasion has the following observable implications:

1. This hypothesis suggests that Japan is more likely to comply with international norms after the Japan takes rhetorical positions that make non-compliance difficult (i.e. joining regimes or ratifying treaties in support of the norm).

If constructivism-persuasion correct, then I expect that, once Japan enters into international agreements, the rhetoric of the Japanese state should change in ways consistent with those agreements and in ways that make non-compliance more difficult.

2. This hypothesis suggests that Japan should be more likely to comply with international norms that have the support of a scientific consensus.

If constructivism-persuasion is correct, then I expect that of transnational scientific consensus will be associated with norm compliance. However, scholarship on epistemic communities generally suggests that a transnational scientific consensus is a *sufficient* pre-condition—but not a *necessary* pre-condition—for norm compliance. Therefore, a case of compliance in the absence of transnational scientific consensus will not pose a substantial challenge to the hypothesis, while a case of non-compliance despite the presence of a transnational scientific consensus will pose a substantial challenge to the hypothesis.

3. This hypothesis suggests that dialogue between elements of the Japanese state and elements of international society in support of international norms should precede Japanese compliance with international norms.

If constructivism-persuasion is correct, then I expect to find a substantial dialogue between international society and elements of Japan's state and society in the time leading up to Japan's compliance with international norms.

H3b—Constructivism-Internalization Hypothesis: A state is more likely to comply with international norms when elements of state and/or society establish links with international society and use those norms to demand change.

The internalization variant of constructivism has the following observable implications:

1. This hypothesis suggests that Japan is more likely to comply with international norms in cases when domestic courts adopt those norms as legally binding principles.

If constructivism-internalization is correct, then I expect domestic judicial precedents to precede Japan's compliance with international norms. However, scholarship on the role of the judiciary in compliance with international norms, like scholarship on epistemic communities, generally suggests that judicial precedents are a *sufficient* pre-condition—but not a *necessary* pre-condition—for norm compliance. Therefore, a case of compliance in the absence of domestic judicial precedents will not pose a substantial

challenge to the hypothesis, while a case of non-compliance despite the presence of domestic judicial precedents will pose a substantial challenge to the hypothesis.

2. This hypothesis suggests that Japan should be more likely to comply with international norms when NGOs use those norms to form links with international society and demand change.

If constructivism-internalization is correct, then I expect to find that compliance has been associated with NGOs' links to international society and the use of international norms in domestic politics. In particular, because NGOs often rely on donations and thus have financial incentives to portray themselves as maximally effective, if interviews with NGO leaders suggest that NGOs did not have a major role in bringing about norm compliance, then this will be a substantial challenge to the constructivism-internalization hypothesis.

H4—Contested National Identity Hypothesis: States are more likely to comply with international norms when there is an elite consensus that compliance is consistent with national identity.

The contested national identity argument has the following observable implications:

1. This hypothesis suggests that, when Japanese elites should justify compliance in a manner demonstrating different understandings of national identity, Japan is more likely to comply with international norms.

If contested national identity is correct, then I expect to find compliance justified with arguments demonstrating different elite understandings of national identity. This dissertation will operationalize an *elite understanding of national identity* as a set of assumptions about the nature of citizenship, a state's role in the world, and the dimensions of a state's national interest that a recognizable number of elites share.

2. This hypothesis suggests that, in cases where Japan does not comply with international norms, elite justifications for and critiques of that non-compliance should demonstrate differing understandings of national identity.

If contested national identity is correct then I expect my research to reveal that elite justifications for and critiques of non-compliance demonstrate differing understanding of

national identity. In short, in the case of non-compliance, if elites with understanding A of national identity support compliance and elites with understanding B of national identity oppose compliance, this suggests that the elite disagreement was a key factor in preventing compliance.

3. This hypothesis suggests that Japan is unlikely to comply with an international norm if substantial portions of elites believe that compliance is not consistent with Japan's national identity.

If contested national identity is correct, then I expect to find non-compliance when a group of elites with a particular understanding of national identity believes that compliance is not consistent with that national identity.

VII. Contributions to Scholarship and Beyond

The discipline of international relations was founded around a fairly basic set of questions about the international system: Why do states go to war? Why do states cooperate? Regarding the latter question, postwar IR scholarship has focused on explaining the effectiveness of a variety of efforts at creating interstate cooperation, including international law, institutions, regimes, and norms. One of the central issues underlying much of this scholarship has been the question of compliance; how is it that, despite the absence of a world government, “almost all nations observe almost all principles of international law and almost all their obligations almost all of the time” (Louis Henkin, cited in Hathaway 2002: 1937)? While much of the early work on compliance with international norms did not seriously consider the role of domestic politics, recent scholarship has begun to correct that trend by focusing on how domestic institutions mediate the influence of international norms.¹³ My dissertation will make the case for taking domestic ideational debates—in addition to domestic institutions—seriously, and will thus supplement this emerging body of literature.

¹³ See Archarya 2004 for a good review of the literature on domestic politics and norm compliance.

Moreover, scholars of international relations do not often conduct field research. While theories of international relations frequently address the relationship between international norms and domestic politics, few scholars outside of EU studies interview policymakers in order to understand the causes of norm compliance. This dissertation will thus test influential theories of international relations against a relatively new type of evidence.

In addition to IR theory, this dissertation also aims to contribute to scholarship on the politics of Japan. Japan's rapid economic growth of the 1960s, 70s, and 80s was such a spectacular sight to behold that most Japan-focused political science scholarship during that period asked a variant of the same question: how did this happen? In attempting to answer this question, scholarship addressed sub-questions, including: what role has the government played in managing the economy? What has been the role of political parties, bureaucrats, and keiretsu—economic conglomerates—in this rapid economic growth? Does the Japan represent a “third way” between a Soviet style command economy and Anglo-Saxon free market capitalism? With the collapse of Japan's economic bubble and the subsequent “lost decade” of the 1990s, as well as the Japan boom in America—the increasing popularity of Japanese food and popular culture—political science scholars of Japan have begun to seriously examine other elements of Japanese politics as well. This dissertation is a part of that trend, focusing on the relationship between Japan and the world rather than the causes of Japan's economic growth. This dissertation revisits that period of high growth, in particular, the 1970s and 1980s, with a view toward addressing some of the issues that political scientists of the time were not addressing. In particular, during that well studied period of high growth, how did Japan interact with international society?

Finally, this dissertation may influence popular discourse on Japan. The American popular media tends to present Japan as a country where harmony and homogeneity dominate. The image of Japan that I present, a country with serious elite debates about the very nature of what it means to be Japanese, will encourage American

policymakers as well as producers of mass media to reconsider their own images of Japan and the Japanese political system.

Chapter 2: Foreign Residents

Yasemin Soysal's study of citizenship policy (1994) argues that during the postwar period, the international system has developed a new set of international norms regarding the treatment of non-citizens:

The recent guestworker experience reflects a time when national citizenship is losing ground to a more universalistic model of membership, anchored in deterritorialized notions of persons' rights. This new model, which I call *postnational*, reflects a different logic and praxis: what were previously defined as national rights become entitlements legitimized on the basis of personhood (1994: 3).

In other words, international norms have developed that forbid discrimination against non-citizens in legal rights and entitlements. This chapter will address the following puzzle: why did Japan change its policies to comply with these international norms in the 1970s and 1980s? I will argue that Japan complied because compliance was framed in a way that appealed to elites with fundamentally different understandings of Japanese national identity. Compliance appealed to westernizers because most western countries had already extended rights to non-citizens, and compliance appealed to cultural preservationists because they believed that compliance with these norms was the best way to preserve the illusion of ethnic homogeneity.

This chapter begins with a description of the nature of the foreign community in Japan. Second, I discuss the changes that Japan made to comply with international norms regarding the treatment of foreign residents. Third, I outline the inadequacy of the alternative explanations outlined in Chapter 1 to explaining these changes. Finally I develop my own explanation in two parts. I begin with a discussion of the consensus policy direction under which the foreign community was governed until the 1970s, and then I discuss the breakdown of that consensus and the establishment of a new consensus in the 1970s and 1980s.

I. Foreigners in Japan

Japan's foreign population is diverse, but for most of the postwar period Koreans have made up the vast majority of that population. Most Koreans in Japan trace their roots to Japan's colonial rule of Korea (1910-1945); by 1945, almost two million Koreans lived in Japan (Kim 1997: 24). The majority of Koreans came to Japan for employment. Many former Korean peasants migrated to Japan because reforms that ended traditional land holding patterns (often in ways that benefited Japanese companies) rendered them landless. Japanese companies frequently encouraged migration, as Koreans were a source of cheap labor (Kim 1997: 27-34). Moreover, in 1938 Japan began to specifically recruit Korean laborers to alleviate labor shortages in industries such as coal mining. This system of "recruiting" was frequently coercive, and in 1942 Japan began formally conscripting Koreans to serve as laborers. The statistics regarding this era are difficult to discern; Japanese government statistics suggest that between 1939 and 1945 more than 600,000 Koreans were brought to Japan, and some scholars put the number at close to 1.5 million (Kim 1997: 118).

Table 2.1: Registered Foreign Residents in Postwar Japan¹⁴

Year	N & S Korea	China	Philippines	U.S.A.	Brazil	Peru	Other	Total
1947	598,507	32,889	240	2,249			5,483	639,368
1950	544,903	40,481	367	4,962	169		7,814	598,696
1955	577,682	43,865	435	8,566	361		10,573	641,482
1960	581,257	45,535	390	11,594	240	40	11,510	650,566
1965	583,537	49,418	539	15,915	366	88	16,126	665,989
1970	614,202	51,481	932	19,045	891	134	21,773	708,458
1975	647,156	48,728	3,035	21,976	1,418	308	29,221	751,842
1980	664,536	52,896	5,547	22,401	1,492	348	35,690	782,910
1985	683,940	74,924	12,261	29,044	1,955	480	48,635	850,612
1990	687,940	150,339	49,092	38,364	56,429	10,279	82,874	1,075,317
1995	666,376	222,991	74,297	43,198	176,440	36,269	142,800	1,362,317
2000	635,269	335,575	144,871	44,856	254,394	46,171	225,308	1,686,444
2001	632,405	381,225	156,667	46,244	265,962	50,052	245,907	1,778,462
2002	625,422	424,282	169,359	47,970	268,332	51,772	264,621	1,851,758
2003	613,791	462,396	185,237	47,836	274,700	53,649	277,421	1,915,030

¹⁴ Data from *Nihon Tōkei Nenkan* [Japan Statistical Yearbook], 1949, 1960, 1986, and 2005. Countries featured in table had more than 40,000 residents in Japan at some point during postwar period. In 2003 there were foreign residents from more than 43 countries in Japan.

From Japan's surrender in 1945 until 1946, around 1.3 million Koreans returned to Korea, leaving 647,006 in Japan (Kim 1997: 170). The Korean population has remained around 600,000 up to the present, as is indicated in Table 2.1.¹⁵ As Figure 2.1 indicates, well into the 1980s the majority of resident foreigners in Japan were Koreans whose families had been in Japan since the colonial period.

The two dominant social organizations in the Korean community in Japan have been the pro-South Korean Residents Union of Japan (Mindan), and the pro-North Korean General Association for Koreans Residents in Japan (Chōsen-Sōren).¹⁶ Both groups have historically discouraged their members from applying for Japanese citizenship (Chung 2003: 34). This policy is based on an assumption about citizenship and identity that links national identity with formal national citizenship, an assumption that Mindan and Chōsen-Sōren have shared with the Japanese state. According to this outlook, when Koreans take Japanese citizenship, they renounce their Korean identity. For this reason the vast majority of Koreans in Japan did not naturalize, but to avoid discrimination they tried to pass as Japanese. This created the strange situation of “over 600,000 highly assimilated Korean permanent residents living within Japan's territorial boundaries without full citizenship rights” (Chung 2003: 35).

II. Changes in the Treatment of Foreign Residents in the 1970s and 1980s

In the 1970s and 1980s, Japan made substantial efforts to increase the access of foreign residents to public sector employment, social safety net programs, and education, thereby complying with international human rights norms against discrimination against foreign residents. In public sector employment, the first major change occurred in 1977, when Nippon Telephone and Telegraph, a public corporation, lifted the requirement that its employees be Japanese nationals, and began to employ some Koreans residents of

¹⁵ Of course, these numbers do not include undocumented immigrants. Recent scholarship suggests that tens of thousands, or even hundreds of thousands, of Koreans many have come to Japan illegally from the immediate postwar period until the 1970s (Morris-Suzuki 2006).

¹⁶ Chōsen-Sōren did not form until 1955. Between 1945 and 1955, there had been two other major communist organizations formed in Japan's Korean community. For a discussion of these groups see Yamawaki 2001 and Chung 2003: 34-35.

Japan. NTT thus joined Japan's other two major public companies, Japan National Railway and the Japan Monopoly Corporation, in hiring foreign residents (Iwasawa 1998: 166).¹⁷ Also in 1977, a foreign resident was able to become an attorney for the first time in the postwar period. In Japan, prospective attorneys are required to spend two years at the Supreme Court-led "Legal Training and Research Institute," and before 1977 the Supreme Court had not allowed foreign nationals to attend. However, in 1977 a prospective attorney with Korean nationality refused to naturalize, and the Supreme Court changed the rule (Iwasawa 1998: 165).

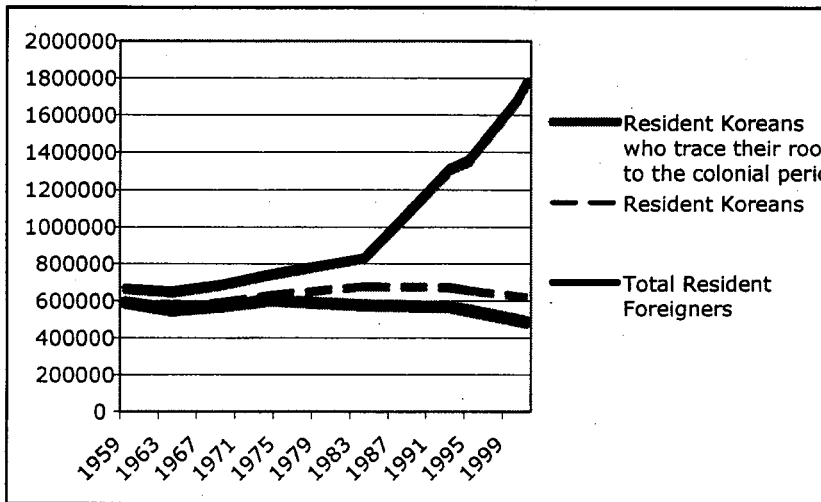


Figure 2.1: Resident Koreans as a Portion of Resident Foreigners in Japan¹⁸

In 1983 the Ministry of Economy, Trade, and Industry revised an order to allow foreign residents to become patent attorneys either under the principle of reciprocity or "when the Minister of International Trade and Industry recognizes it as appropriate" (Iwasawa 1998: 165-66, 166n170). In 1984, the Ministry of Posts and Telegraphs, under pressure from an Osaka citizens movement, began to allow non-citizens to serve as mail carriers, and in 1986, the Ministry of Home Affairs sent a Circular Notice to municipal governments encouraging them to treat health nurses, midwives, and nursing positions as technical and thus allow foreign residents to take those positions (Iwasawa 1998: 164).

¹⁷ All three of these public corporations have since privatized.

¹⁸ Data from *Zairyū Gaikokujin Tōkei* [Statistics on the Foreigners Registered in Japan], 1964, 1970, 1975, 1985, 1998, 1999, 2002.

Changes in the social safety net began even earlier. During the 1965 normalization talks between Japan and South Korea, Japan promised to extend national health insurance to South Korean citizens in Japan, which Japan did in 1967. Many municipalities also chose to extend health insurance to other foreign residents, but they were not required to do so (Iwasawa 1998: 169-170). Because the citizenship of Koreans in Japan was fairly fluid—it was not very difficult to move one's citizenship from North Korea to South Korea—this policy had the effect of encouraging Koreans to change their citizenship from North Korea to South Korea, thus weakening the relationship between the communist North and the Korean community in Japan, which was a desirable cold war strategy. In 1982, following the ratification of the Refugee Convention, national health insurance was extended to refugees, and in 1986 national health insurance was extended to all foreign residents who would be in Japan for more than one year (Iwasawa 1998: 170).

In 1975, the Ministry of Construction began to allow foreign residents to use public housing, and in 1979 the Ministry of Health and Welfare formally changed its interpretation of the Mother-Child and Widow welfare laws so that foreign residents were eligible for those programs (Iwasawa 1998: 174-75). In 1982, refugees and foreign residents were allowed to participate in Japan's national pension plan – with the exception of those who were over 60 or over 20 and disabled in 1982. The Refugee Convention did not require Japan to extend pensions to foreign residents, but the idea that, if pensions are extended to refugees, they should be extended to foreign residents too, was virtually uncontested in Japanese elite public discourse. In 1983, the Tokyo High Court ruled that Japan was required to pay the pension of a Korean man who had been sold a Japanese pension plan before 1982 and, in a move that was rare for Japanese courts, the High Court cited international human rights treaties in their decision (Iwasawa 1998: 1971-72).

There were two major changes in education policy as well. In 1975 the public Japan Scholarship Society changed its policy so that some foreign residents could obtain loans for education, and federal policy was changed in 1982 so that foreigners could be

hired as full professors at national and municipal universities. Unlike the majority of laws in Japan, parliamentarians, rather than bureaucrats, proposed this law. The version of the law that bureaucrats had proposed was more restrictive of the rights of foreign professors (Iwasawa 1998: 157, 163, note 157).

III. Alternative Explanations

A. Hegemonic Stability Theory

I will now examine the ability of the alternate explanations outlined in Chapter 1 to explain Japan's compliance with international norms regarding refugee admissions. Table 2.2 summarizes this discussion. The first alternate explanation, hegemonic stability theory, suggests that states comply with international norms because of pressure from the most powerful states in the international system. Chapter 1 identified three observable implications of this theory: compliance should be more likely when America asks Japan to comply with a norm, when America makes credible threats to enforce the norm, and that compliance should increase as the credibility of the threats increases.

It is difficult to construct an explanation of Japan's compliance with international norms regarding treatment of foreign residents using Hegemonic Stability, because the treatment of foreign residents was not a major concern of the United States during the 1970s and 1980s. While it is clear that America had a number of concerns about Japanese domestic politics during that period (including concerns relating to Japan's refugee admissions and whaling policy, as discussed in Chapter 3 and Chapter 4), my interviews as well as my examination of newspaper reports, government documents, and secondary sources did not suggest any American pressure regarding Japan's treatment of foreign residents. Japan's compliance with international norms regarding the treatment of foreign residents in the absence of U.S. pressure suggests that Hegemonic Stability Theory cannot account for Japan's compliance with international norms.

B. Liberal Institutionalism

Liberal institutionalism suggests that states comply with international norms when those norms have the support of international institutions with strong monitoring and enforcement capacities. In the case of Japan's treatment of foreign residents, the relevant international institution is the UN Human Rights Committee that was set up to monitor state compliance with the International Covenant for Civil and Political Rights (ICCPR). Article 26 of the ICCPR, which Japan ratified in 1979, forbids discrimination on the basis of national origin, and the Human Rights Committee is responsible for monitoring state compliance with this and all other provisions of the ICCPR.

The Human Rights Committee has moderate monitoring ability, and no enforcement ability. While it does not have the ability to authorize on site inspections of state human rights practices, it does have the ability to ask states to submit reports (ICCPR, Article 40). However, the Human Rights Committee does not have enforcement authority; it lacks the power to recommend sanctions against states that it finds in violation of the treaty. Japan's high compliance with international norms regarding the treatment of foreign residents is difficult to explain using liberal institutionalism, given the weak enforcement mechanism and moderate monitoring mechanism of the Human Rights Committee.

C. Constructivism-Persuasion

Constructivism-persuasion suggests that dialogue with international society draws states into compliance with international norms. Dialogue is most likely to draw a state into compliance when the pro-compliance position has the support of a treaty that the state has ratified or an epistemic community with substantial legitimacy. This theory has two observable implications relevant to cases of high compliance: compliant states are likely to have ratified relevant international treaties, and compliant states are likely to participate in dialogue with international society.

An initial examination suggests that constructivism-persuasion might be useful in explaining Japan's compliance. As constructivism-persuasion predicts, Japan ratified the

ICCPR and engaged in dialogue with the UN Human Rights Committee, publishing reports on its compliance with the ICCPR in 1980 and 1987. However, there are two problems with constructivism-persuasion's suggestion that dialogue between Japan and international society caused Japanese compliance.

First, Japan began changing domestic policies *before* it published reports to the Human Rights Committee; substantial policy changes began in the mid-1970s, and Japan did not issue its first report to the Human Rights Committee until 1980. Second, constructivism-persuasion suggests that once a state acknowledges the legitimacy of an international norm, it can be drawn into genuine dialogue about specific allegations of violations of that norm; this dialogue can sometimes convince the state to change its behavior. However, neither of Japan's two reports before the Human Rights Committee from the 1980s acknowledge the existence of any problems in Japan's treatment of foreign residents; both reports suggest that equal protection of foreign residents is already guaranteed under Japan's constitution. The 1980 report suggests:

With regards to the rights of an alien, some provisions of the Constitution refer only to nationals (articles 11, 13, 14, et al.), and others to all persons irrespective of nationality. However, the Constitution does not purport to exclude an alien from the enjoyment of fundamental human rights, and, therefore, an alien is also guaranteed, by the constitution and other domestic legislation, enjoyment of the rights recognized in the Covenant (Government of Japan, 1980: 2).

The 1987 report makes a similar argument:

The rights of aliens are guaranteed in accordance with the spirit of the Constitution which is based on respect for fundamental rights and international co-operation, with the exception of the rights which are applicable, by definition, only to nationals such as the right to vote (Government of Japan, 1987: 4).

Neither of these statements acknowledges that Japan's ratification of the ICCPR imposed new obligations on the Japanese state.¹⁹ While Japan was engaging in some sort of

¹⁹ The Ministry of Foreign Affairs made a similar argument before domestic audiences. In 1980, the Domestic Public Relations Division published a Japanese-language pamphlet that aimed to explain the new treaties to "all Japanese people" (kokumin kakui). The pamphlet argues that the treaties' provisions forbidding discrimination against people because of their national or social origins fall under the Japanese constitution's prohibition against discrimination based on one's social status or family origin (Ministry of Foreign Affairs, Bureau of Information and Culture, Domestic Public Relations Division 1980: 8).

conversation with international society, it was not the type of dialogue that constructivism-persuasion suggests should precede compliance.

D. Constructivism-Internalization

Constructivism-internalization suggests that states comply with international norms when elements of the domestic state and/or civil society form alliances with international civil society and use those norms to demand change. This argument had two observable implications: compliance is more likely domestic NGOs form links with elements of international society, and when domestic courts use international law to demand change.

Some scholars have used this theory to explain the treatment of foreign residents in Japan. For example, Gurowitz (1999) argues that Korean rights activists successfully used Japan's ratification of the ICCPR and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1979 to demand changes in Japan's treatment of foreign residents. Gurowitz is right to note that pro-Korean activists have successfully used human rights rhetoric to demand changes. However, human rights abuses in Japan have not been a focus of the transnational human rights movement. My newspaper and archival research has not revealed any significant links between the transnational human rights movement and the issue of foreigners in Japan, although some groups in South Korea have taken up the issue of Koreans' rights in Japan. Moreover, between 1975 and 1985, the world's most famous human rights group—Amnesty International—wrote reports detailing abuses in at least 32 countries; none of these reports focused on Japan.²⁰ Furthermore, a organizer of a major Koreans' rights group from the 1970s and 1980s indicated that, while his group did get some financial support from an international Christian group, "There was not much solidarity with overseas citizens' groups during

²⁰ Amnesty International does not post records of reports published before 1996 on their webpage, so I looked at the holdings of five major libraries: Harvard, Columbia, Berkeley, University of Michigan, and University of Washington. Reports were published on Chile, China, El Salvador, Guatemala, Philippines, Indonesia, Spain, Haiti, Peru, Turkey, Yugoslavia, Egypt, Jamaica, Paraguay, Albania, Cambodia, Israel, Czechoslovakia, USSR, Nicaragua, Greece, Pakistan, South Africa, Northern Ireland, Ethiopia, Uganda, Malaysia, Morocco, Syria, Sri Lanka, Bolivia, and Ghana.

that period. During that time South Korean groups were more concerned with the fight for democratization.”²¹ This suggests that alliances between the international human rights movement and pro-foreigners’ rights groups in Japan were not a major cause of Japan’s compliance with international norms.

Table 2.2: Alternate explanations for foreign resident norm compliance

THEORY	OBSERVABLE IMPLICATIONS	PREDICTED VALUE	ACTUAL VALUE
Hegemonic stability/reactive state	U.S. Japan dialogue about compliance	existent	Absent
	U.S. credible threats about compliance	existent	Absent
	Increasing severity of threats → Increasing compliance	severe threats	no threats
Liberal Institutionalism	Increasing monitoring capacity → increasing compliance	high monitoring capacity	moderate monitoring capacity
	Increasing sanctioning capacity → increasing compliance	high sanctioning capacity	low sanctioning capacity
Constructivism-persuasion	Ratification of treaties → compliance	ratification precedes compliance	compliance preceded ratification
	Scientific consensus → compliance	N.A.	N.A.
	Dialogue between Japan and international society precedes compliance	Much dialogue	limited dialogue
Constructivism-internalization	Court precedent → compliance	active courts	passive courts
	Local NGO links with TNGOs → compliance	frequent NGO links with TNGOs	few NGO links with TNGOs

It is likewise difficult to maintain that internalization of international standards into Japan’s domestic legal system caused compliance. A Japanese government representative stated in hearings about the ratification of the ICCPR and the ICESCR that the treaties do not require equal protection of citizens and foreign residents (Saito 1981: 102),²² and Japanese courts have been extremely reluctant to challenge this position

²¹ Interview with subject F52, October 19, 2006, Kawasaki, Japan.

²² According to Saito, “regarding the treatment of non-nationals, the question of whether or not discrimination based on nationality is prohibited cannot be answered directly from the wording of Article 2

(Hamano 1999; Iwasawa 1998). Japan's willingness to change its treatment of foreign residents in the absence of links between pro-Korean groups in Japan and the transnational human rights movement and in the absence of the incorporation of international human rights language into the legal reasoning of Japanese courts is contrary to the predictions of constructivism-internalization.

IV. Contested National Identity and Japan's Foreign Residents

In 1981, in the wake of Japan's ratification of the Refugee Convention the conservative *Yomiuri* Newspaper printed an editorial that argued:

After the international human rights agreements went into affect in the autumn of 1979 [the ICCPR and ICESCR], the internationalization of our country's legal institutions has steadily proceeded. Although the reform of citizenship law—in which male-female discrimination is deeply rooted—remains an unresolved problem, even in our country, in which a doctrine of an ethnically homogeneous and monocultural purity of blood persists, doors have become open to foreigners in many areas, in a manner suitable to a member of international society. This situation might be called the second opening of Japan, after the Meiji Restoration.²³

Notable is the claim that, because of its obligations as a member of international society, the Japanese government has opened doors to foreigners in spite of the “doctrine of an ethnically homogeneous and monocultural purity of blood.” In other words, this article suggests that the Japanese state valued its commitment to international norms more than the dominant Japanese public opinion.

Yomiuri's characterization of the government's approach—acting as a member of international society in the face of intense public opposition—is perhaps an accurate description of the period leading up to the Meiji Restoration, when the decision to open Japan in response to U.S. demands led to the overthrow of the Tokugawa regime by a

of either Covenant [the ICCPR or the ICESCR]. The government's representative stated, however, that the rights provided for in both Covenants should be enjoyed by equally [sic] nationals and non-nationals and admitted a number of provisions in the Japanese legislation which should be reviewed in this respect” (1981: 102).

²³ *Yomiuri Shimbun*, June 11, 1981, “Nanmin no tame no ‘Hirakareta Kuni’ ni [Toward an ‘Opened Country’ for Refugees]”, p. 4 [Editorial].

group promising to “honor the emperor and expel the barbarians.” However, it is less clear that this is an accurate characterization of Japan’s decision to substantially limit discrimination against foreign residents of Japan. To the contrary, this chapter will argue that the government succeeded in opening up new opportunities for foreigners in Japan precisely because key governing elites were convinced that such political changes would *not* pose a substantial challenge to “doctrine of an ethnically homogeneous and monocultural purity of blood.” Put another way, Japan changed its treatment of foreign residents to comply with international norms in the 1970s and 1980s because this policy direction appealed to those leaders who thought that Japan should westernize as well as those who thought that Japan should preserve its culture.

A. *The Separatist Idea for Governing Foreign Residents*

In the postwar period, Japanese elites agree on what scholar Yamawaki Keizo calls the “separatist idea”;²⁴ the idea that foreigners don’t belong in Japan, and should be encouraged to leave (2001: 298). The separatist idea makes the following assumptions about Japan’s national identity. First, Japanese identity is an ethnic, rather than a civic identity. Second, Japanese greatness is intricately linked with ethnic homogeneity. Third, those who are not ethnically Japanese do not belong in Japan for the long term, and an effective way to encourage non-Japanese to leave Japan is to guarantee that they are not extended the same privileges and social protections as Japanese people.

The separatist idea appealed both to elites who thought Japan should become more western and those that thought that Japan should act to protect its culture. The westernizers could hardly object on the grounds that the separatist idea was contrary to western ideals, as the separatist idea was incorporated into law with the consent of the Supreme Commander of the Allied Powers (SCAP), who occupied Japan as the initial laws were made. The separatist idea also had obvious appeal to those who wanted to preserve a particular vision of Japanese culture based on ethnic identity, as it called for the exclusion of foreign residents from political participation. Masuyama Noboru, a

²⁴ *Bunriteki na Hassō*

Section Chief in the Bureau of Immigration, well summarized the separatist idea's views about foreign residents in 1969: "It is not in the interest of Japan for Koreans to remain here. The line of thinking that suggests that 'if they can, it would be best if they leave' is predominant" (Yamawaki 2001: 295).

The political impact of the separatist idea is evident in three different policymaking processes: the negotiation of the postwar constitution, the passage of the 1946 Revised Parliamentary Electoral Law, and the formation of citizenship policy in 1952. As the Japanese government and the SCAP negotiated the contents of the Japanese constitution, the Japanese government succeeded in convincing SCAP to eliminate a proposed article which had stated that "aliens shall be entitled to the equal protection of law," and to change the subject of Article 13, which guarantees equal protection under the law and forbids discrimination, from the vague "all natural persons" (*subete no shizenjin*) to "the people" (*kokumin*) (Koseki 1989: 140). The term "kokumin" was later defined in statute to mean "persons with Japanese citizenship" (Hamano 1999: 437).

In 1946 former colonial subjects lost the right to vote and hold office due to the Revised Parliamentary Electoral Law, which was passed with the consent of SCAP (Kim 1997: 143). Also in 1946, the Japanese government instituted a tax that only non-Japanese were required to pay. SCAP allowed this law to pass once it was amended so that citizens of the Allied Powers were exempt. (Ōnuma 1993 [1978]: 27).

As the occupation drew to a close, Japanese officials realized that, contrary to what they had anticipated, SCAP would not require them to allow former colonial subjects to choose whether or not to keep their Japanese citizenship. Thus, on April 19, 1952, nine days before the peace treaty went into effect, Japan took citizenship away from all Koreans and Taiwanese, including those who remained in Japan (Iwasawa 1998: 130-131, particularly notes 29 and 30).

The separatist idea continued to influence Japan's approach toward foreign residents after the end of the occupation. In 1966, the year after Japan normalized relations with South Korea, the Immigration Bureau in the Ministry of Justice released a document called *Zainichi Kankokujin no Hôteki Chii Kyôtei to Shutsunyûkoku Kanri*

Tokubetsu Hô Kaisetsu [An Commentary on the Agreement on the Legal Status of South Koreans in Japan and the Special Law on Immigration and Emigration], written by Tatsumi Nobuo. This document explained the recently passed agreement with South Korea state and the subsequent law that put that agreement into effect. The document is primarily a standard legal analysis. During the brief discussion of the social problems that faced many South Koreans in Japan, Tatsumi argues that:

According to research from April of 1954, of the Koreans in Japan, the number of people with jobs is 140,714, which means that 24.3% are employed. Leaving out Koreans and Chinese, 40.4 % of other foreigners in Japan are employed, and therefore the rate [for Koreans] is comparatively low, but Koreans are affixed to our country in a different way than other foreigners, and hence, in addition to wives and children without jobs, as will be explained subsequently, because there is employment instability, it is thought that there is a considerable number of people who are unemployed or close to unemployed (Tatsumi 1966: 17).

Tatsumi then provides a more detailed statistical analysis of the employment situation of Koreans in Japan. However, he does not attempt to analyze the steps that the Japanese government might take to improve this situation. He makes no mention of the possibility that discrimination, the formal denial of social safety net protections, and lack of public sector employment opportunities for foreign residents might be a cause of these economic difficulties. The subtext of the report seems to be that, while Japan has faithfully implemented its agreement with South Korea, it is not a very hospitable place for foreign residents, and that won't change anytime soon.

The 1965 agreement recognized those Koreans in Japan who allied themselves with South Korea as permanent residents of Japan. However, those of Taiwanese heritage and those who formally allied themselves with North Korea—two groups totaling 493,099 people in 1969 (*Zairyū Gaikokujin Tōkei* 1970)—still retained an ambiguous legal status. The Immigration Bureau unsuccessfully proposed a law to grant permanent residency status to those two groups four times between 1969 and 1981. The *Asahi Shimbun* suggests that these proposals failed in the Diet because they also contained provisions which would have given the Ministry of Justice increased authority

to check the political activities of foreign residents.²⁵ In short, the Ministry of Justice acted as if increasing security of status for foreign residents must be accompanied by limitations on their political activities; despite the change in residency status, the Ministry of Justice still discouraged foreign residents from considering Japan their long-term home.

These proposed laws were not the only mechanism that the Ministry of Justice used to limit the political activities of foreign residents. In 1969, the Ministry of Justice refused to grant a one-year visa extension to an American citizen for two reasons: a minor visa violation, and his participation in a variety of peaceful political demonstrations while in Japan (including anti-Vietnam War protests). The Supreme Court held that:

Even when the conduct of Aliens during their stay is in accord with the Constitution and is lawful, if the Minister of Justice determines that the conduct of the alien is undesirable for Japan from the prospective of propriety, or if it is inferred from the said conduct that there is danger in the future that the said alien will behave in a way that is harmful to Japan's interests, this does not amount to depriving an alien of constitutional protection (McLean v. Justice Minister 1978: 477).

In short, the court gave the Ministry of Justice wide latitude in restricting the rights of foreigners. Even when foreign residents could claim constitutional rights, the ability of the Ministry of Justice to deport aliens for constitutional activities amounts to a *de facto* weakening of those rights.

The Ministry of Justice also aimed to limit the overseas political activities of resident foreigners. In 1977 the Ministry of Justice denied reentry permits to seven resident Koreans with North Korean citizenship who wanted to travel to North Korea to participate in an election of the Supreme People's Assembly, giving the following justification: "Regarding reentry of resident Koreans, because it is limited to humanitarian cases such as visiting graves, there is no precedent for openly political

²⁵ *Asahi Shimbun*, March 2, 1981, "Shūsenmae Ijūsha to Shison; 23 Mannin, Mujōken ni [Immigrants to Japan from Before the End of the War and their Descendants; Toward Unconditional Status for 230,000 people]," p. 1.

activities such as this case.”²⁶ All of these policies are consistent with the separatist idea’s assumption that foreigners don’t belong in Japan, and should be encouraged to leave.

B. The Weakening Separatist Consensus
 (1) Westernizers

In 1952, when Japan became a formally independent nation again, it was not clear that there was a tension between western practice and an exclusionary immigration policy. Many western states also had restrictive definitions of citizenship and policies which substantially limited the rights of non-citizens. Moreover, as noted above, Japan developed its exclusionary immigration policy with SCAP’s consent. However, this situation slowly changed throughout the postwar period. Western countries began to grant more and more rights to foreign residents. The increasing gulf between western and Japanese immigration policies posed a challenge for those who thought that Japan should “leave Asia and enter Europe.” This concern with the difference between Japanese and western practice represents perhaps the most commonly heard elite critique of Japan’s treatment of foreign residents in the 1970s and 1980s.

The Ministry of Foreign Affairs first expressed this idea in a publication in 1965. The publication is a comprehensive study of all laws relating to foreign residents in Japan. It begins with an 11-page overview and analysis. Early on in the analysis they discuss the debate about whether the constitution protects the rights of foreign residents. After outlining three different positions on this issue, they argue that, even if the words of the constitution themselves do not protect foreign residents, it is consistent with the spirit of the constitution (*kenpō no shinsei*) to protect the rights of foreigners. In particular, they reference the constitution’s emphasis on the theory of natural law, the principle of international cooperation, and the protection of fundamental human rights (*Nihon ni Okeru Ippan Gaikokujin* 1965: 2).

²⁶ Asahi Shimbun, November 10, 1977, “Seiji Katsudō Mitomerarenu [Political Activities are not Approved]”, p. 2.

Having argued that the constitution protects the rights of foreign residents, they are soon faced with the difficult task of explaining why Japanese law still limits the rights of foreign residents. The Ministry argues:

Before the end of the recent war, there were extensive limitations and prohibitions on the possession of rights by foreigners and foreign legal people. These limitations and prohibitions were in large part eliminated after the war, and in contemporary politics only the following items remain (*Nihon ni Okeru Ippan Gaikokujin* 1965: 4).

The Ministry of Foreign Affairs thus links restrictions on the rights of foreign residents in Japan with Japan's illiberal prewar system. While the Ministry does not explicitly invoke western models, the implication of the quote seems to be that policies that discriminate against foreign residents are gradually being eliminated from Japanese politics, as Japan's system continues to advance beyond the prewar system.

Throughout the 1970s and into the 1980s, there were increasing calls in popular media for Japan to modify its treatment of foreign residents in accordance with western practice. In the introduction to a news article on Japan's practice of prohibiting foreigners from becoming professors at Japanese national universities, the *Nihon Keizai Shimbun* argued: "with the hosting of the Tokyo Summit²⁷ and so forth, Japan aims to become opened to international society, but, in terms of becoming a western-style place where it is easy for foreigners to live, Japan remains at the beginning of such changes."²⁸ This quote is particularly interesting because it assumes that emulating the west is an avenue through which Japan can become open to international society. The article then names countries that have a more effective policy approach than Japan:

Now, in national universities throughout the country, there are about 290 foreign teachers, but their contracts are almost invariably one-year contracts. If we look at the example of advanced industrialized nations, West Germany, America, and England employ foreign professors the same as citizen professors, and voices

²⁷ This is a reference to Japan's hosting of its first G7 meeting in Tokyo in June 1979.

²⁸ *Nihon Keizai Shimbun*, June 16, 1979, "Gaijin ni Hirakareru Tobira; Kōdan Jūtaku ni Dōzo; Kokumin Nenkin Nado Nanmon Ooi [Doors that Have Been Opened to Foreigners; They're Welcome to Urban Development Corporation Housing; Many Problems Remain with Pensions, etc.]", p. 23.

saying 'let's open up the road of hiring foreigner as regular professors' are increasing from both inside and outside of Japan.²⁹

This quote uses a rhetorical device that is extremely common in Japanese newspaper articles and editorials in the 1970s and 1980s: to claim that there is criticism of Japan's existing policy approach, particularly criticism from outside Japan, without providing any specific examples of the sources of that criticism. This is often coupled with favorable reporting on the practice of western states.

Japanese media also focused on the issue of the citizenship of children born to mixed-nationality couples. Before 1985, Japan had a patrilineal citizenship policy: the children of Japanese women and foreign men were not granted Japanese citizenship. There had been talk about revising this law as early as 1979, when Minister of Foreign Affairs Sonoda Sunao said during a House of Representatives Foreign Affairs Committee discussion of the ICCPR and the ICESCR that the Ministry of Foreign Affairs would talk with the Ministry of Justice about the possibility of eliminating gender discrimination from Japan's citizenship law.³⁰ Two families where Japanese women had married foreign men unsuccessfully sued the Japanese government to change this law.³¹ On the same day that the Tokyo District Court announced this ruling, the Ministry of Justice announced that it would change Japan's citizenship policy so that either parent could pass on citizenship by 1985, the tenth year of the UN decade of the woman.³²

In an opinion piece critical of Japan's patrilineal citizenship policy, Kanemori Toshie argues that this policy is unconstitutional, and notes the dissatisfaction of the Japanese women's movement with the current policy. He also argues:

Also, globally, various countries that had previously had a patrilineal citizenship policy, such as West Germany and France, have, with the rise of the women's

²⁹ *Nihon Keizai Shimbun*, June 16, 1979, "Gaijin ni Hirakareru Tobira; Kōdan Jūtaku ni Dōzo; Kokumin Nenkin Nado Nanmon Ooi [Doors that Have Been Opened to Foreigners; They're Welcome to Urban Development Corporation Housing; Many Problems Remain with Pensions, etc.]," p. 23.

³⁰ *Nihon Keizai Shimbun*, March 17, 1979, "Kokusekihō Kaisei ni Maemuki [Looking Forward on Revision of the Citizenship Law]," p. 2.

³¹ *Nihon Keizai Shimbun*, March 31, 1981, "Chichioyaseki Yūsen demo Gōi; Futagumi no Uttae Kikyaku [Even Patrilineal Citizenship is Acceptable; Both Lawsuits are Dismissed]," p. 23.

³² *Nihon Keizai Shimbun*, March 31, 1981, "Hōmushō ha Sudeni Kaisei Sagyō Chakushu [The Ministry of Justice has Already Begun Reform Operations]," p. 23.

liberation movement in the 1970s, one by one changed to a policy whereby citizenship could be passed on by either parent.³³

While this purports to explain a global trend, both of Kanemori's examples come from Western Europe, and other critics cite western examples to criticize Japan as well.³⁴ Officials at the Ministry of Justice agreed with Kanemori regarding the importance of foreign examples to Japan's citizenship policy. In a move reminiscent of the Iwakura Mission of 1871-1873, when Meiji Era elites went to western nations to study their governing institutions, in the summer of 1980 the Ministry of Justice sent delegates abroad to examine how other countries have dealt with the problems stemming from the abolition of patrilineal citizenship. They seemed particularly concerned with the problems stemming from dual citizenship.³⁵

The importance of western examples was also evident in Diet debates about whether Japan should ratify the Refugee Convention in 1981. The Refugee Convention requires states to extend the same pension benefits to refugees and citizens. Debates about this provision generally accepted the premise that, if Japan ratified the treaty and extended pensions to refugees, then it would have to extend pensions to foreign residents, particularly those who had been in Japan since World War Two and their descendants. Officials from the Ministry of Health and Welfare, as well as some Diet members, feared that allowing foreign residents to participate in the pension program would be prohibitively expensive, and hence suggested that Japan should make reservations to Articles 23 and 24 of the Refugee Convention, which dealt with pensions.³⁶ At one point

³³ Kanemori Toshie, *Yomiuri Shimbun*, March 31, 1981, "'Kokuseki Fukei' Gōken; Nattoku Dekinu; Seisaku dake Zenmen ni; Danjo Byōdō ha Jinken no Mondai ['Patrilineal Citizenship' is Constitutional; I Cannot Understand; The Policy Only in All Directions; Male-Female Equality is a Human Rights Problem]," p. 5 [Opinion Piece].

³⁴ See also *Nihon Keizai Shimbun*, April 1, 1981, "Fukei Yusen Kokuseki wo Aratamero [Let's Revise the Patrilineal Citizenship Law]," p. 2 [Editorial], which notes the policy changes in France, West Germany, Switzerland, Sweden, and Canada.

³⁵ *Nihon Keizai Shimbun*, March 31, 1981, "Hōmushō ha Sudeni Kaisei Sagyō Chakushu [The Ministry of Justice has Already Begun Reform Operations]," p. 23.

³⁶ *Nihon Keizai Shimbun*, May 4, 1981, "Zainichigaikokujin nimo Kokuminenkin wo 'Fukushi Sakoku' Tsuyomaru Fūatsu [The Extension of National Pensions to Resident Foreigners As Well 'Welfare-based National Isolation' Strong Pressure]," p. 2.

the Ministry of Health and Welfare suggested that if Japan ratified the Refugee Convention, then Japan's system of social insurance would collapse.³⁷

It is interesting to note the Ministry of Foreign Affairs' response to the Ministry of Health and Welfare. Rather than dealing with the economic claims of the Ministry of Health and Welfare, bureaucrats from the Ministry of Foreign Affairs argued that "Of the 80 countries that ratified the treaty, only three *developed countries* have made reservations, and if we did that, we would be inviting international criticism."³⁸ In short, it is desirable for Japan to become more like a developed, western state, and a reservation to the Refugee Convention—which would have allowed Japan to exclude refugees from the national pension plan—is not consistent with that goal.

(2) Cultural Preservationists

In the 1970s, many of those who had believed that the policies based on the separatist idea were the best way to protect Japanese culture became nervous about changes in the Korean community in Japan. Perhaps most ominously from the standpoint of elites dedicated to protecting what they believed to be Japan's ethnic homogeneity, intellectual leaders in the Japanese Korean community began to question the proposition that had been commonly accepted before the 1970s – that Japan was simply a temporary residence for Koreans.

Some Korean thinkers in Japan began to talk seriously about "a way to live in Japan as home, without being totally Korean or Japanese but by being '*zainichi*' (resident in Japan)" (Chapman 2004: 34). This new intellectual current developed as the Korean community attempted to grapple with the changing nature of their community, as the second and third generations of Koreans were born in Japan, attended Japanese schools, and often spoke Japanese but not Korean. By 1974, 76 percent of Koreans in Japan had

³⁷ *Nihon Keizai Shimbun*, March 13, 1981, "Kokkai Teishutsu Kimaru; Shakai Hoken, Naikokumin Nami [It Has Been Decided to Submit it to the Diet; Social Insurance will be in line with Citizens]," p. 1.

³⁸ *Nihon Keizai Shimbun*, May 4, 1981, "Zainichigaikokujin nimo Kokuminnenkin wo 'Fukushi Sakoku' Tsuyomaru Fūatsu [The Extension of National Pensions to Resident Foreigners As Well 'Welfare-based National Isolation' Strong Pressure]," p. 2, emphasis added.

been born there (*Zairyū Gaikokujin Tōkei* 1975).³⁹ This demographic trend—Koreans increasingly appearing to be long-term settlers in Japan—was often called *teichakuka* (residentialization).

Teichakuka challenged the expectation of many elites committed to the separatist idea that the most effective way to encourage those without Japanese ethnicity to leave Japan is to make certain that they are not extended the same privileges and social protections as those with Japanese ethnicity. In spite of the fact that Korean residents in Japan were not extended privileges and social protections, the Korean community appeared poised to remain in Japan. From the standpoint of those elites committed to the idea that Japan's ethnic homogeneity is normatively desirable, this was a worrying trend.

One of the earliest and clearest explanations of why this trend is undesirable can be found in the writing of Bureau of Immigration bureaucrat Sakanaka Hidenori. Sakanaka's essay, "*Zainichi Chōsenjin no Taigū* [The Treatment of Koreans in Japan]", won a Ministry of Justice Bureau of Immigration Essay contest in 1975, and its impact on Ministry of Justice rhetoric about foreign residents was almost immediately evident. The essay begins with the statement that "the reality that, as a heterogeneous group of foreigners, 640,000 Koreans exist in our country's society in an unstable situation, creates all sorts of problems from the standpoints of domestic order and international relations" (1999 [1975]: 149). Sakanaka goes on to note the issues most of concern to Koreans in Japan: "Koreans in Japan, and Korean groups in Japan, in addition to requesting future legal status, are making increasingly strong requests for lifestyle-based and economic rights including the end of workplace discrimination, financing from public banks, the end of discrimination in public housing, and the granting of child support allowances" (1999 [1975]: 149). Like Tatsumi's 1966 analysis cited above, Sakanaka's essay uses the word "instability (*fuantei*)" to describe the situation of Koreans in Japan. However, unlike Tatsumi's essay, Sakanaka specifically addresses a wide range of factors that create that instability, and he makes specific arguments about solutions that the government should pursue.

³⁹ 483,185 of 638,806.

Sakanaka notes three ways of thinking about the appropriate treatment of Koreans in Japan: “(1) assimilation (naturalization) policy, (2) a policy of treating them and their descendants as foreigners, and (3) encouraging and forcing them to return to their country of origin” (1999 [1975]: 150). He is critical of each approach; while he dismisses the third approach quickly, arguing that forcibly returning Koreans to Korea or encouraging them to return is contrary to humanitarian ideals and is not likely given the current context (1999 [1975]: 151), he devotes a bit more attention to the first two ways of thinking about the treatment of Koreans in Japan.

Regarding assimilation/naturalization politics, he argues that all Koreans in Japan do not want to take on Japanese nationality for historical reasons. He also claims that, even if they do take such nationality, “the problem remains that, as ‘former Koreans,’ it is expected that they will still face discrimination” (1999 [1975]: 151).

While this criticism suggests a degree of discomfort with assimilation-driven policies, Sakanaka’s criticism of the second way of thinking about Koreans in Japan—the policy of treating them and their descendants as foreigners—suggests that he is also uncomfortable with the idea of Japan continuing to have a large, unassimilated minority population. He argues that:

It is thought that there is a natural momentum pulling second and third generation Koreans in Japan toward ‘Japanization’ in the form of language, customs, and ways of thinking, to the extent that they can carry out a lifestyle in Japan. However, we should indicate that that things that contradict this natural tendency create a situation where ethnic consciousness provides spiritual uplift, and Koreans in Japan can effectively create an ethnic minority consciousness, and there is a strong chance that the root cause—an ethnic minority problem—will remain (1999 [1975]: 151).

This quote is telling because it reveals that Sakanaka is not actually opposed to assimilation. He is opposed to government policies that promote naturalization as a form of assimilation, because he does not believe that many Koreans want to naturalize, and because he thinks that Koreans will still face discrimination. But in the above quote he suggests that, if the government wants to promote the assimilation of Japan’s Korean minority, it should promote their human rights.

The Sakanaka thesis was not an official statement of policy. However, the fact that it won the Bureau of Immigration's essay contest in 1975, and Sakanaka's subsequent extremely successful career as a Bureau of Immigration bureaucrat, suggest that it influenced the Bureau of Immigration. Moreover, the impact of the Sakanaka thesis on how the Bureau of Immigration discussed foreign residents was immediately evident. The Bureau of Immigration's 1976 periodic report was the first such report in the postwar period to have a section devoted to human rights (see Ministry of Justice, Bureau of Immigration, 1959, 1964, 1971, 1976).

The Sakanaka Thesis was successful because it appealed to those who wanted Japan to westernize and those who wanted to preserve Japanese culture. While the essay does not make substantial references to westernization, that might be attributable to the author's understanding that his argument—that Japan should work to end discrimination against its long term foreign residents—was already associated with westernization in the minds of his readers.

Instead, Sakanaka focuses on a point which would be less obvious to his readers—that ending discrimination against Koreans in Japan was necessary to avoid creating a vocal, unhappy ethnic minority in Japan, a minority whose very existence challenged the notion of Japan's ethnic homogeneity. This argument ultimately appealed to those who did not support westernization, but instead believed that Japan should preserve its culture.

(3) Bureaucratic Informalists

Changing international and domestic circumstances substantially weakened elite commitment to the separatist idea in the 1970s. In addition to the changes outlined above, there was another set of changes that were troubling to a wide swath of elite bureaucrats in the central government. Namely, local government initiatives and a key court decision were pulling Japan toward a more accepting policy toward foreign residents. Many local governments had been extending benefits to foreign residents since the early 1970s, even in the face of direct requests from the central government to be less

generous (Takao 2003: 541-48), and Japanese courts ruled in 1974 that Hitachi was wrong to fail to hire an employee once they learned of his Korean heritage; legal scholar Yuji Iwasawa has compared the results of the Park case on *Zainichi* Korean mobilization with the impact of *Brown v. Board of Education* on African American mobilization in the United States (1998: 202, n331). This trend was particularly troubling to central government bureaucrats because it challenged the conventional dominance of the Japanese bureaucracy over the pace and course of social change. This is something that the Japanese bureaucracy has traditionally aimed to protect (Upham 1987).

C. *Contested National Identities and Japan's Compliance*

The above discussion demonstrates the existence of a vigorous elite debate about compliance with norms regarding foreign residents. As my argument about contested national identity predicted, Japanese elites argued for and justified compliance with norms regarding the treatment of foreign residents in a manner that demonstrated different understandings of Japan's national identity. Newspaper editorials and opinion pieces as well as statements from the Ministry of Foreign Affairs made it clear that Japanese elites who believe that Japan should strive to be more like a western state supported Japan's norm compliance. The Sakanaka Thesis, and Sakanaka's subsequent influence within the Bureau of Immigration, suggest that those who want to preserve Japan's ethnic homogeneity also came to support Japan's norm compliance. Japan was ultimately able to comply with international norms regarding the treatment of foreign residents because those supporting compliance were able to secure the support of both of these groups.

Chapter 3: Whaling

The 1972 UN Conference on the Human Environment (frequently called the Stockholm Conference) marked the beginning of the end of modern commercial whaling as a legitimate practice in most advanced industrial democracies. The conference published a report that recommended a ten-year moratorium on commercial whaling, and throughout the western world, administrations representing political parties from the left and the right acted together to eliminate commercial whaling. In short, the anti-whaling position has become a norm that the bulk of the industrialized world shares.

This norm against commercial whaling has failed to take hold of three industrialized countries: Norway, Iceland, and Japan. This chapter will focus on Japan. In particular, I will focus on Japan's mixed record of compliance with this anti-whaling norm in the 1970s and 1980s. A casual observer of Japan's whaling policy would be forgiven for balking at the notion that Japan has a mixed record of compliance with international anti-whaling norms. Indeed, Japan currently takes hundreds of whales each year using scientific permits that it registers with the International Whaling Commission (IWC). Popular discussions of Japan's whaling policy frequently put quotation marks around the word "scientific," suggesting that Japan's scientific whaling program simply exploits a loophole in the International Convention for the Regulation of Whaling (ICRW)—the treaty that established the IWC—and that the program is indistinguishable from commercial whaling.

I am not a marine biologist, and this dissertation will not evaluate the "science" of Japan's scientific whaling program.⁴⁰ However, putting the issue of the scientific nature of this program aside, the circumstances around the beginning of Japan's scientific whaling program suggest moderate compliance with international norms for two reasons. First, the number of whales Japan has taken with scientific permits pales in comparison to

⁴⁰ For opposing takes on the veracity of Japan's whaling science, see Richard Black, *BBC News*, May 25, 2007, "Under the Skin of Whaling Science," May 29, 2007, <<http://news.bbc.co.uk/2/hi/science/nature/6667907.stm>>, Andrew Darby, April 13, 2007, "Renowned Fisheries Expert Harpoons Japan's 'Sushi Science,'" *Cyber Diver News Network*, April 26, 2007, <<http://www.cdnn.info/news/eco/e070413.html>>, World Wildlife Fund, "An Open Letter to the Government of Japan on 'Scientific Whaling,'" *New York Times*, May 20, 2002, p. A12, and Aron, Burke, and Freeman 2003.

the number of whales Japan had taken commercially. See Figure 3.1 for a graphic representation. In 1987, Japan's last year of commercial whaling, Japan took 2,782 whales, and in 1988, Japan's first year of scientific whaling, Japan took only 273 whales.

Second, as Figure 3.1 suggests, Japan drastically reduced the scale of its commercial whaling throughout the 1970s and 1980s in a way that was devastating to Japan's whalers. One scholar estimates that these changes cost Japan "well over \$100 million in scrapped vessels and facilities' and involved massive layoffs in the thousands" (Stoett 1999: 76). This is consistent with Japanese media reports throughout the 1970s and 1980s that suggest that decreases in annual whale catches led to downsizing at whaling companies; at the beginning of the 1976 IWC meeting the Japanese whaling industry reported that the quotas for the 1975-1976 season had left 1500 people unemployed in Japan.⁴¹

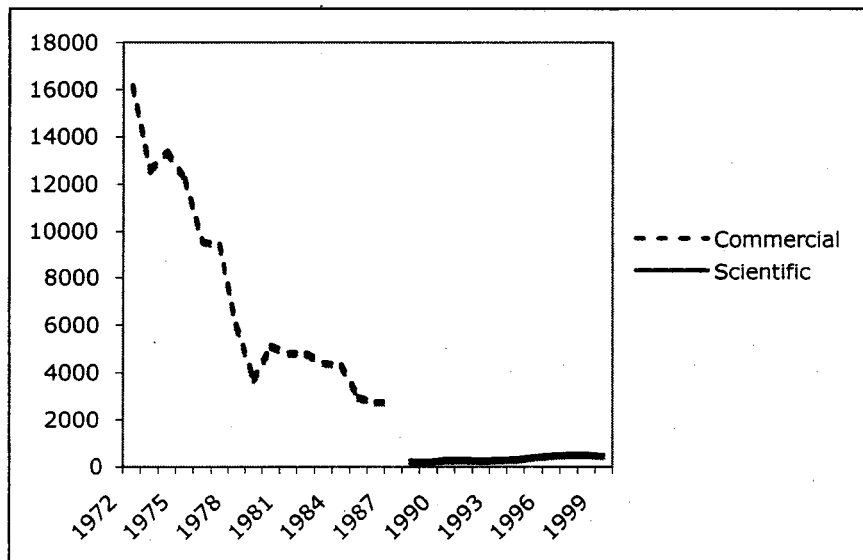


Figure 3.1: Japan's Annual Whale Harvest⁴²

⁴¹ *Nihon Keizai Shimbun*, June 22, 1976, "Kokusai Hogeï Iinkai Hajimaru; Nyūjiirando, Fukki [International Whaling Committee Meeting to Begin; It Returns to New Zealand]," p. 5. For other Japanese media reports of the impact of IWC quotas on the whaling industry, see *Nihon Keizai Shimbun*, July 2, 1972, "Nichisui Hogeï Bumon wo Gōrika; Nennai ni Sanbyakunin Haiten [Japan Fisheries to Rationalize Whaling Group; 300 to be Redeployed within the Year]," p. 6; *Asahi Shimbun*, November 14, 1984, "Gyōkai ni Ikidoori to Rakutan [Indignation and Dejection in the Industry]," p. 2; *Asahi Shimbun*, November 15, 1984, "Kanren Sangyō Gomannin ni Eikyō [50,000 in Related Industries to be Influenced]," p. 8.

⁴² Source: Reports of the International Whaling Commission, 1973-2000.

This chapter will address two aspects of Japan's compliance with international whaling norms: Japan's decision to reduce commercial catches throughout the 1970s, culminating with Japan's withdrawal of its objection to the IWC moratorium on commercial whaling in 1984, and Japan's decision to begin its scientific whaling program in 1988 in the face of tremendous international criticism and U.S. sanctions. I will argue that the Japan's whaling policy in the 1970s and 1980s was formulated amid a struggle between westernizers, who believed that Japan should comply with the IWC, and cultural preservationists, who believed that whaling is an essential aspect of Japan's traditional culture that must be preserved. While westernizers succeeded in getting Japan to limit and eventually end commercial whaling, they were not effective in preventing cultural preservationists from getting Japan to begin scientific whaling.

This chapter begins with a summary of the recent history of whaling in Japan. Second, I outline the inadequacy of the alternative explanations outlined in Chapter 1 in explaining the development of Japan's whaling, and finally I develop my own explanation for the formation of Japan's whaling policy.

I. Whaling in Japan

Between 1600 and 1868, the Tokugawa Shogunate severely limited contact between westerners and Japanese. In 1825, in response to increasingly frequent incidents of western whaler incursions into Japanese waters, the Shogunate issued an edict which declared that "whenever a foreign ship is sighted approaching at any point along our coast, all persons on hand should fire on and drive it off" (cited in Duus 1997: 25). Whalers continued to have contact with Japan throughout the 19th century, and in *Moby Dick*, Melville had his narrator declare that "if that double-bolted land, Japan, is ever to become hospitable, it is the whale-ship alone to whom the credit will be due, for she is already on the threshold" (cited in Duus 1997: 11). History seems to have proven Melville's narrator correct; when the American Navy famously sent "black ships" to Tokyo in order to demand that Japan open its ports to the world, one of the main concerns

of the Americans was “the fate of castaway American sailors and whalers” (Duus 1997: 11).

In the immediate postwar period, the American Occupation did more than simply asking Japan to treat castaway American whalers well; the Supreme Commander of the Allied Powers (SCAP) actively encouraged large-scale Japanese whaling. In a message to the American State Department, General MacArthur justified the SCAP plan to allow Japanese whaling in the 1947-48 season with reference to “critical shortages of protein foods and extreme shortages [of] edible oils” in Japan (cited in Scheiber 2001: 141). SCAP also encouraged the use of whale meat in school lunches in Japan, and because of that policy, “what had been a dietary item not consumed in most areas of Japan now became for a new generation a familiar staple meat product” (Scheiber 2001: 136).⁴³

Beginning in the 1960s, most western countries gave up commercial whaling for two reasons. First, around the beginning of the 20th century products such as kerosene and margarine were discovered to be effective replacements for whale oil (Stoett 1999: 59; Tønnessen and Johnson 1982: 229). However, whale oil still had a number of uses, and thus these changes alone were not enough to account for the retreat of entire national industries.

The second reason that industries began to retreat was “the combination of overfishing, overinvestment, and declining prices for whale oil” (Peterson 1992: 162). These economic pressures were particularly acute in countries that didn’t have a domestic market for whale meat (a category which includes all major whaling states except Japan).⁴⁴ This is because “during the 1950-63 period a blue whale used only to produce oil earned its taker an average of \$3,675, while a blue whale used to produce both meat and oil earned an average of \$11,250” (Peterson 1992: 162n39). The decreasing profitability of whaling among non-consumers of whale meat led most western whaling

⁴³ The policy of promoting Japanese whaling had opponents within the U.S. government and even more vocal opponents among the allied powers – in particular, the United Kingdom, Australia, and New Zealand. For a discussion of conflicts among the Allies on the issue of Japanese whaling during the occupation, see Scheiber 2001, Chapter 1.

⁴⁴ The USSR didn’t have a domestic market for whale meat but Soviet fleets were able to remain solvent because of “large state subsidies” (Peterson 1992: 162).

states to stop commercial whaling. By 1965 British and Dutch whalers had quit, and after the 1967-68 season Norway stopped Antarctic whaling. The last of the US industry went out of business in 1972, but even before it went out of business it was too small to have substantial political impact (Stoett 1999: 86).

In addition to the decreasing economic importance of the whale, in the 1960s and 1970s there were two major trends in international efforts to regulate whaling. First, beginning in the 1960s, the IWC, which had previously been known as a “whaler’s club” (Mitchell 1998: 144), began to take the advice of scientists regarding the future of whale stocks seriously. This change culminated in the IWC’s 1974 adoption of the New Management Procedure (NMP), which gave scientists a major role in determining quotas based on the “maximum sustainable yield” of each whale species (Peterson 1992: 164).⁴⁵ Second, a transnational advocacy network began to call for a ten-year moratorium on commercial whaling. This network was made up of both radical environmentalists—who believed that people should not kill whales on principle—and scientists—who were concerned about the accuracy of the current models used to predict whale stocks (Mitchell 1998: 153-54; Peterson 1992: 169-170). This movement’s first big success occurred when the 1972 Stockholm Conference passed a resolution calling for a ten-year moratorium on commercial whaling. This was regularly proposed at IWC meetings after 1972, and in 1982 anti-whaling states succeeded in implementing this moratorium, to go into effect in 1986.⁴⁶

Following these trends in international regulation of whaling, Japan made some substantial changes in its whaling policy – reducing and then eliminating commercial

⁴⁵ Previous to the NMP, quotas were frequently set for arbitrary reasons not based on science. In 1944, Western powers held a conference where they set the Antarctic quota for the 1945-46 season at 16,000 Blue Whale Units because, in the words of the Norwegian delegate to the conference the figure “seemed to be rather more reassuring” than other possible numbers (Tønnessen and Johnson 1982: 491). The Antarctic quota remained at or around 16,000 for almost 20 years, until the 1962-63 season (see Tønnessen and Johnson 1983: 750 for detailed quota data).

⁴⁶ This moratorium is still in effect today. The IWC’s Scientific Committee finished its review of whale stocks and in 1993 they proposed a new Revised Management Procedure (RMP) which would allow for limited commercial whaling of non-endangered species. This was initially rejected by the IWC, and in 1994 the IWC “adopted” the RMP without “implementing” it – a gesture with no policy relevance. After the 1993 rejection of the RMP the chair of the Scientific Committee resigned in frustration (Aron, Burke, and Freeman 2002: 180).

whaling, while resisting pressure to end its scientific whaling program. In the next section of this chapter I will address the causes of these changes, as well as the reason for the beginning of Japan's scientific whaling program.

II. Alternative Explanations

A. Hegemonic Stability Theory

I will now examine the ability of the alternative explanations outlined in Chapter 1 to explain Japan's compliance with international norms regarding whaling. For a summary of this discussion, please see Table 3.1. The first alternative explanation, *Hegemonic Stability Theory*, suggests that states comply with international norms because of pressure from the most powerful states in the international system. Scholars of Japan's whaling policy frequently attribute Japan's compliance with international norms—particularly Japan's decision to withdraw its objection to the moratorium on commercial whaling—to pressure from the United States (Peterson 1992: 181). In short, Japan's whaling policy is frequently treated as an easy case for *Hegemonic Stability Theory*; in a chapter on American influence and the International Whaling Commission, Andresen argues that American hegemony has been more influential in some cases than others, but he also suggests that, of whaling states, Japan was the most responsive to US pressures in the 1980s (Andresen 2002: 393-94).

Chapter 1 identified three observable implications of *Hegemonic Stability Theory*: (1) compliance should be more likely when America asks Japan to comply with a norm; (2) when America makes credible threats to enforce the norm; and (3) compliance should increase as the credibility of the threats increases. Regarding the first implication, America has regularly asked Japan to comply with international norms regarding whaling. At annual meetings of the International Whaling Commission in the 1970s and 1980s, America frequently led the anti-whaling states in promoting policy to reduce whaling.

American policies to reduce whaling were not limited to statements at the IWC, however. In the 1970s and 1980s, Congress passed two policy tools that were regularly

used to limit the whaling of foreign states: the 1971 Pelly Amendment to the Fisheries Protection Act (herein called the Pelly Amendment)⁴⁷ and the 1979 Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act (herein called the Packwood Magnuson Amendment). The Pelly Amendment allows America to unilaterally sanction another country when

the Secretary of Commerce finds that nationals of a foreign country, directly or indirectly, are conducting fishing operations in a manner or under circumstances which decrease the effectiveness of an international fishery conservation program” (cited in Desombre 2000: 113).

When the Secretary of Commerce makes such a determination, the President has the option to “prohibit the bringing or importation into the United States of fish products” from that country (cited in DeSombre 2000: 113).

Unlike the Pelly Amendment, which was written to address Danish, Norwegian, and West German salmon overfishing (DeSombre 2000: 112-113), the Packwood-Magnuson Amendment was specifically targeted at whaling. The Packwood-Magnuson Amendment requires that countries certified under Pelly as violating the ICRW must lose 50% of their fishing quotas in the U.S. Exclusive Economic Zone (EEZ) (Peterson 1992: 172-73).⁴⁸

Both the Pelly and Packwood-Magnuson Amendments have been used against Japanese whaling, with some degree of success. At the 1973 IWC meeting, Japan objected to the IWC quota on minke whales. In November 1974 President Ford certified Japan under the Pelly Amendment, and shortly after that Japan withdrew its objection (DeSombre 2000: 209). Japan also objected to the 1982 moratorium on commercial whaling. While the America didn’t certify Japan under the Pelly Amendment, America did apply a 9% cut to Japan’s 1983 allocation in the U.S. EEZ—which represented around 102,000 metric tons of fish—in order to signal its displeasure to Japan (Caron 1989: 320). Subsequently, the US and Japan entered into negotiations, and in November

⁴⁷ The Fisheries Protection Act was originally passed in 1967 (DeSombre 2000: 113)

⁴⁸ A state’s Exclusive Economic Zone includes waters up to 200 miles off that state’s coastline, where that state has sovereign authority to manage the use of ocean resources. This was a new doctrine in international law in the postwar period, and it is usually traced to the negotiations for the third UN Convention on the Law of the Sea (Peterson 1992: 167).

the two countries announced the Murazumi-Baldrige agreement which was supposed to end the whaling standoff between Japan and America.

The actual content of the Murazumi-Baldrige agreement was the subject of some confusion; the media reported that Japan had agreed to remove its objection to the moratorium on commercial whaling by April 1, 1985, and to end commercial whaling by 1988 in exchange for an American promise to refrain from certifying Japan under the Pelly Amendment (Caron 1989: 321n60). However, Japan's Fisheries Agency reported that Japan had only agreed to give up coastal sperm whaling, not all forms of commercial whaling.⁴⁹ On April 5, 1985, Japan agreed to remove its objection to the moratorium on commercial whaling after a formal request from the United States that came with a threat. Japan's Minister of Agriculture, Forestry, and Fisheries said "it is an extremely regrettable choice, but it is unavoidable."⁵⁰

While the specter of the Pelly and Packwood-Magnuson Amendments seem to have impacted Japan's whaling policy in these two instances, these Amendments have not always been effective in convincing Japan to comply with international whaling norms. At the 1987 IWC meeting, Japan announced its intention to begin a lethal scientific whaling project that involved 825 minke whales and 50 sperm whales annually. The IWC passed a non-binding objection to Japan's plan, and Japan resubmitted a plan on the last day of the meeting that involved the taking of 300 minke whales annually. America was critical of this proposal for scientific whaling, arguing that it was a violation of the moratorium on commercial whaling, and suggesting that, should Japan carry out this proposal, it would be sanctioned under the Pelly and Packwood-Magnuson

⁴⁹ *Yomiuri Shimbun*, November 14, 1984, "Mada Koshō no Yochi ha Aru; Suisanchō Chōkan [Direction of Fisheries Agency: There is Still Room for Negotiation]," p. 1. The Japanese media expressed some confusion at Japan's position. *Asahi Shimbun* reported that "While the Japanese side said that its promise is only to give up the taking of sperm whales by 1988, and not to end all commercial whaling, looking at the contents of this, it appears that ending all commercial whaling by 1988 cannot be avoided;" November 14, 1984, "Bei, Gyokaku Seisai de Semaru; Nihon 'Nao Kyōgi no Yochi' [America Presses for Fishery Allocation Sanctions; Japan says 'Still Room for Negotiation]."

⁵⁰ *Yomiuri Shimbun*, April 5, 1985, "'88 Nen 2 Gatsu Kagiri de Maku; Bei ni Seishiki Tsūkoku he [By the End of March, 1988, It's Over; Formal Communication Sent to America]" p. 1.

Amendments.⁵¹ This threat was not successful in convincing Japan to give up its scientific whaling program. In late January 1988, Japan took its first whales with scientific permits, and, and as soon as the U.S. received confirmation of Japanese whaling, the US certified Japan under the Pelly Amendment and consequently ended all Japanese fishing in the US EEZ (Martin and Brennan 1989: 304-06).⁵² Japan has continued to whale with scientific permits in spite of substantial American criticism and threats; America again certified Japan under the Pelly Amendment in 1995, but this second certification was also not successful in convincing Japan to stop scientific whaling (DeSombre 2000: 211).

Of the three cases that this dissertation considers, it is the case of whaling where the United States exercised the most substantial pressure on Japan. In addition to regular dialogue between America and Japan, the Pelly and Packwood-Magnuson Amendments gave the U.S. Government means to threaten and use material sanctions on Japan. At times, these sanctions appear to have worked; most notably, with Japan's decision to remove its objection to minke whale quotas in 1974 and its decision to remove its objection to the moratorium on commercial whaling in 1985. However, neither the threat of sanctions nor the actual presence of sanctions was enough to deter Japan from beginning its scientific whaling program in 1988. Thus, this chapter suggests that U.S. pressure is not the primary cause of Japan's compliance with international norms regarding whaling.

⁵¹ Philip Shabecoff, *New York Times*, January 22, 1988, "U.S. Warns Japan Not to Kill Whales in Antarctic," p. A7; *New York Times*, January 24, 1988, "Japan and Iceland Will Defy Ban on the Killing of Whales," p. 18.

⁵² This policy is not as costly as it might sound, however, as a 1982 amendment to the Fisheries Conservation and Management Act eliminated all fishing rights for foreigners in the US EEZ after six years except for those directly involved in joint ventures with US firms (Peterson 1992: 180). Thus, regardless of what else happened, 1988 was scheduled to be the last year of Japanese allocations in the American EEZ, and in 1988, Japan had only requested an allocation of 8000 tons of fish (Wilkinson 1989: 285) compared with the 1.35 million ton allocation Japan had received in 1980 (*Suisan Nenkan* 1981).

B. Liberal Institutionalism

Liberal institutionalism suggests that states comply with international norms when those norms have the support of international institutions with strong monitoring and enforcement capacities. In the case of Japan's whaling policy, the relevant international institution is the IWC. The IWC does not have substantial monitoring capacities; it leaves the burden of monitoring to the states (Peterson 1993: 148). This does not seem to be a problem however, as even groups vehemently opposed to whaling generally don't challenge national catch data.⁵³

The IWC also does not have major enforcement capacities. The IWC has the power to establish a schedule of quotas, but the schedule is not permitted to be amended in a way that would "involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory or ship or land station or to any group of factory ships or land stations" (ICRW Article V Section 2). Moreover, states can opt out of quotas within 90 days with no consequence (ICRW Article V Section 3), and the IWC does not have the power to impose sanctions on states that exceed quotas (Flory 1986: 633). Also, states can leave the organization with no penalty (ICRW Article XI). Finally, member states are permitted to issue permits in order to take whales "for purposes of scientific research," and while states must report their research programs to the IWC's Scientific Committee, the commission only has the power to respond with non-binding recommendations (Wilkinson 1989: 277).⁵⁴

Despite the weak monitoring and enforcement capacity of the IWC, Japan has taken some steps to comply with international norms regarding whaling; Japan significantly reduced its catches throughout the 1970s and 1980s, and removed its objection to the moratorium on commercial whaling in 1985. These policy changes are difficult to explain from the standpoint of liberal institutionalism.

⁵³ A major exception was Soviet whaling, as recent Russian disclosures reveal massive falsification of catch records (Scheiber 1998: 28).

⁵⁴ In light of present debates within the IWC, it is interesting to note that IWC was conceived as a weak organization at the insistence of the United States. As Wilkinson argues: "almost comically, a provision for enforcement of the Convention was removed from the final draft of at the insistence of the United States, and had the provision remained, the United States would not have been forced to become the policeman for the IWC" (1989: 276).

C. Constructivism-Persuasion

Constructivism-persuasion suggests that dialogue with international society draws states into compliance with international norms. Dialogue is most likely to draw a state into compliance when the pro-compliance position has the support of a treaty that the state has ratified or an epistemic community with substantial legitimacy. This theory has two observable implications relevant to cases of moderate compliance: moderately compliant states are somewhat likely to have ratified relevant international treaties, and moderately compliant states are somewhat likely to participate in dialogue with international society.

There are two ways that one might conceive of a constructivism-persuasion explanation for Japan's whaling policy. First, one might argue that Japan has come to moderately comply with international norms against whaling because of the regular dialogue with international society at annual IWC meetings. The problem with this argument is that, contrary to the predictions of constructivism-persuasion, Japan's official stance regarding a commercial whaling moratorium at international fora—from the 1972 Stockholm Conference to the 2007 conference of the parties to the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES)—has remained virtually unchanged. Japan's scientific advisor at the Stockholm Conference argued, "the [moratorium] policy that is being recommended here is completely without a basis in biological science."⁵⁵ This rhetoric is hard to distinguish from the title of the proposal that Japan unsuccessfully attempted to pass at the 2007 conference of the parties to CITES, "The Proposal to Reconsider the Scientific Basis of the Moratorium on Commercial Whaling."⁵⁶

These two similar statements, separated by 35 years of history, are no mere coincidence. Indeed, for the past 35 years Japanese elites have been regularly claiming,

⁵⁵ *Asahi Shimbun*, June 10, 1972, "'Kagakuteki Konkyo Usui' Shusseki no Nishiwaki Kyōju wo Tsuyoki ['The Scientific Basis is Weak' Professor Nishiwaki Confidently Says]," evening edition, p. 9.

⁵⁶ *Yomiuri Shimbun*, June 11, 2007, "Nihon Teian no Hogeiki Kinshi Konkyo Minaoshi An wo Hiketsu [Japan's Proposal to Reassess the Basis of the Whaling Ban is Rejected]."

to both international and domestic audiences, that the moratorium on commercial whaling lacks scientific basis. This will be discussed in greater depth below; for now it will suffice to note that Japan's 35 years of attending international conferences and making the same argument about the weak scientific basis of the whaling moratorium—despite the strong support of that moratorium among environmental NGOs and the governments of the advanced industrialized democracies that have dominated the IWC for much of that period—suggest that dialogue with international society has not had the transformative influence that proponents of constructivism-persuasion suggest that it should.

However, there is a second way to use constructivism-persuasion to explain Japan's moderate compliance with international norms – with reference to epistemic communities. Mitchell argues that states have been most willing to comply with the international whaling regime when the regime has framed its regulation in terms of “scientific causal arguments” (such as the argument that continued taking of blue whales will lead to their extinction) rather than “moral or principled arguments” (such as the argument that the continued taking of blue whales is wrong because whales are beautiful, intelligent, and majestic creatures) (1998: 141). Mitchell suggests that scientific causal arguments dominated the international whaling regime in the 1970s and 1980s, but that the 1982 moratorium “illustrated the growing impact of a moral discourse that had been part of IWC debates since the 1970s” (1998: 151).

Of the alternate explanations for Japan's compliance with international norms, this version of constructivism-persuasion is the strongest; scientific arguments undoubtedly play an important role in Japanese elite discourse about the regulation of fisheries; it is difficult to imagine Japanese elites opposing a whaling moratorium that had the support of a transnational scientific consensus. However, this version of constructivism-persuasion has two weaknesses in explaining Japan's moderate compliance with international whaling norms. First, it has difficulty explaining the variation; Japan removed its objection to the moratorium—making its most substantial move toward compliance—in 1985, when moral arguments, and not scientific arguments,

dominated the international whaling regime. Second, even in the 1970s, the period when scientific arguments dominated the international whaling regime, Japanese elites never accepted the claim that strict regulations on whaling had a scientific basis. This argument will be discussed in greater depth below.

D. Constructivism-Internalization

Constructivism-internalization suggests that states comply with international norms when elements of the domestic state and/or civil society form alliances with international civil society and use those norms to demand change. This argument has two observable implications: compliance is more likely when domestic courts use international law to demand change, and when domestic NGOs form links with elements of international society.

It is difficult to make a constructivism-internalization argument for Japan's moderate compliance with international whaling norms because there have not been any high profile domestic court cases in Japan, and anti-whaling groups have a famously small presence in Japan. There are relatively few indigenous anti-whaling groups, and Japanese offices of international anti-whaling groups have had difficulties recruiting members in Japan (Wong 2001: 121-25).⁵⁷ There is thus little evidence to support the proposition that either Japanese civil society or the Japanese legal system have internalized international anti-whaling norms.

III. Contested National Identity and Japan's Whaling Policy

I argue that Japan's moderate compliance with international norms in the 1970s and 1980s was the result of a struggle between elites with different conceptions of Japan's national identity. Westernizers, who were concerned with Japan's standing relative to the advanced industrialized countries of the west, succeeded in getting Japan to

⁵⁷ At an interview with an organizer from one Japanese group, the Dolphin and Whale Action Network (Ika-Net), I was told that the group had under ten active members; Interview with subject W51, Tokyo Japan, September 22, 2006.

accept the reduced quotas for commercial whaling throughout the 1970s and the moratorium on commercial whaling in 1985. These westernizers had material as well as ideational motivations; in particular, those in Japan's fisheries industry were frequently concerned that continued Japanese commercial whaling might lead to western trade sanctions against other Japanese fisheries. The most notable success of cultural preservationists—a group particularly well represented in the Fisheries Agency—was in getting Japan to begin its scientific whaling program, and thus to provide an avenue whereby their vision of Japanese traditional culture could continue to thrive (albeit on a small scale).

Table 3.1: Alternative Explanations for Compliance with Whaling Norms

THEORY	OBSERVABLE IMPLICATIONS	PREDICTED VALUE	ACTUAL VALUE
Hegemonic stability/reactive state	U.S. Japan dialogue about compliance	Moderate	Frequent
	U.S. credible threats about compliance	Moderate	High
	Increasing severity of threats → Increasing compliance	No variation in threat severity	No variation
Liberal Institutionalism	Increasing monitoring capacity → increasing compliance	Low monitoring capacity	Moderate monitoring capacity
	Increasing sanctioning capacity → increasing compliance	Low sanctioning capacity	Moderate sanctioning capacity
Constructivism-persuasion	Ratification of treaties → compliance	Unclear	Ratification of key treaty
	Scientific consensus → compliance	Moderate scientific consensus	Moderate scientific consensus
	dialogue between Japan and international society precedes compliance	Some dialogue	substantial dialogue
Constructivism-internalization	Court precedent → compliance	N.A.	N.A.
	Local NGO links with TNGOs → compliance	Moderate NGO links with TNGOs	few NGO links with TNGOs

A. Westernizers

At the first IWC meeting after the Stockholm Conference, Ooishi Buichi, the Director General of the Japanese Environment Agency, suggested that, while he did not support the proposed moratorium on commercial whaling, Japan has a responsibility to respect the opinion of the world: "...in order that Japan avoid being isolated in the midst of international public opinion, we should endeavor to communicate our position to each country and ask for their understanding."⁵⁸ While Ooishi does not explicitly argue that Japan should adopt western practices at the expense of Japanese tradition, his concern with international public opinion suggests a concern with justifying Japanese practice in terms of international norms.

In a meeting of the Diet's Lower House's Committee for Conservation and Anti-Pollution that occurred shortly after the 1972 IWC meeting and the Stockholm Conference, Ooishi argues that the IWC is a more appropriate forum for discussing a possible moratorium on commercial whaling than the Stockholm Conference because the IWC has the expertise to address the issue. Particularly interesting about his claim is the authority that he cites; Ooishi precedes his discussion with the qualifier: "I was having a conversation with Walker, the British Minister of the Environment, and he said..." and at the end of his discussion Ooishi again notes that this was Walker's idea.⁵⁹ For Ooishi, the fact that the idea belonged to a western cabinet member clearly gives the idea additional authority.

During the 1970s, Japan and the Soviet Union were frequently the two pro-whaling voices represented at IWC meetings. Regarding a Japan-USSR meeting shortly before the 1972 IWC conference, Ooki Seitaro argues in an opinion piece in *Yomiuri Shimbun*:

At today's Akagi/Ishikoff meeting, the USSR and Japan agreed to cooperate at IWC meetings, but for our country's appraisal of resources, even if we argue with

⁵⁸ *Nihon Keizai Shimbun*, June 14, 1972, "'Nihon no Tachiba Uttaeyō' Hogein Daihyō ni Ooishi Chōkan ['Explain the Japanese Viewpoint,' Whaling Conference Representative Secretary General Ooishi]," evening edition, p. 1.

⁵⁹ Japanese Diet. Lower House. Committee for Conservation and Anti-Pollution Measures, 27th Meeting, July 13, 1972.

America and the others until the end, for the next number of years, as the issue only grows in importance, there is a possibility that we will become an international "orphan."⁶⁰

Like Ooishi, Ooki is concerned that, regardless of the justness of Japan's position, if Japan continues to resist the emerging international norm against whaling, this will cause Japan to become internationally isolated.

Immediately after the 1980 IWC meeting in Brighton, England, Kubo Shintaro wrote an opinion piece which was critical of both the anti-whaling movement and Japanese efforts to continue whaling:

A member of a group that was protesting in front of the meeting place attacked Japan, saying, 'Japan has achieved its present level of prosperity by borrowing technology and civilization from the West. If so, Japan should also try on western ethical views.' Undeniably, ideas of western superiority are hidden behind an international public opinion that is opposed to whaling. If our country's true feeling is that the whaling industry is a traditional industry that must be protected until the end, it is necessary that we broadly communicate the existence of difference food customs and lifestyles. However, is it not the case that the time where this would be possible has already passed?⁶¹

Kubo is critical of the ethnocentrism of the whaling protester that claimed that Japan should simply accept western ethics. However, he is also skeptical of Japan's ability to convince the rest of the world that Japan's traditional whaling culture has value. In the last two sentences of this quote, Kubo first suggests that if Japan truly wants to protect its traditional whaling culture, it must convince the rest of the world that this culture has value, but then he argues that, because anti-whaling norms are already so strong, this will not be possible. In short, Kubo is a reluctant westernizer, suggesting that, because Japan won't be able to convince the west to change its views on whaling, Japan has no choice but to accept these western views.

Kubo is not alone as a reluctant westernizer; the other elite expressions of support of the anti-whaling position in Japan are lukewarm, frequently arguing that Japan's

⁶⁰ Ooki Seitaro, *Yomiuri Shimbun*, "Hogei, Oei no Jijō ni Kodawaruto; Soren mo Jūnan; Kojika no Osore [Regarding Whaling, if we are Obsessed with Our Family's Circumstances...; The USSR is also Flexible; Fears of Becoming an Orphan]," opinion piece, p. 4.

⁶¹ Kubo Shintaro, *Yomiuri Shimbun*, July 27, 1980, "Kujira Mata Herasareta [Whales have Already Passed]," opinion piece.

compliance with international whaling norms is inevitable, rather than desirable. I posit that this has been the case because virtually all elite discourse in Japan on whaling has shared the assumption that a moratorium on commercial whaling is contrary to the recommendations of science. This means that an enthusiastic westernizer would be required to take the position that Japan should emulate western practice even when that practice is contrary to the recommendations of science, and that is not a position that many Japanese elites are willing to take. However, Japanese elites have been willing to take the position that the emulation of western anti-whaling norms is *inevitable*, a position which assumes that the norms of the international system are givens to which Japan must respond. As Ken Pyle argues (2006), Japanese elites have regularly made this assumption since the Meiji restoration.

B. Cultural Preservationists

In the wake of the 1972 Stockholm Conference, when some Japanese elites were beginning to argue that Japan would have to give up whaling in order to accommodate the demands of the west, the Fisheries Agency began to dig in its heels. The Fisheries Agency published a series of annual reports between 1973 and 1983 called “An Outline of Whaling.” These reports are largely made up of statistics and detailed information about Japan’s whaling industry, presented without commentary. However, each of the reports also include some version of this paragraph:

Japan’s whaling industry began in the 1600s. From the time that modern whaling—in the form of Norwegian-style whaling—was introduced to Japan in 1899 until today, about 70 years have passed, but in this period whaling regulations have strengthened, and whaling has undergone twists and turns caused by World War II and the related the industrial mergers, and losses of factory ships, catcher boats, talented whalers, and territory. However, today Japan has become the best whaling country in the world.⁶²

It is interesting to note the four major events in the history of modern whaling highlighted in this quote: the Japanese whaling industry is founded in the 17th Century, Japan begins

⁶² *Hogei Gaiyō [An Outline of Whaling]*, 1973. Tokyo, Suisanchō Seisanbu Kaiyō Daiichika [Fisheries Agency Production Division First Ocean Office], p. 11.

modern, Norwegian-style whaling in 1899, World War II devastates the Japanese whaling industry, and Japan becomes the best whaling country in the world.

These Fisheries Agency reports do not even mention the Stockholm Conference until 1977 report. However, the first report was published in February, 1973, around eight months after the end of the Stockholm Conference, and it seems to be one of the Fisheries Agency's first attempts to formulate a formal response to the Stockholm Conference report in a manner that had the potential to reach the Japanese people. In constructing this kind of brief timeline of Japanese whaling history, the Fisheries Agency is suggesting that a moratorium on commercial whaling would weaken a chain of tradition that began more than 300 years ago and has led to Japan's becoming the "best whaling country in the world."

The Fisheries Agency's emphasis on the longstanding tradition of whaling clearly resonated with cultural preservationists. In the wake of the Murazumi –Baldrige Agreement of 1984—when Japan and America agreed that Japan would stop commercial whaling by 1988—an anonymous representative from one of Japan's whaling companies asked *Asahi Shimbun* "Why is it that due to the existence of foreign pressure we must abolish Japanese whaling, which has gone on continuously for many hundreds of years?"⁶³

In addition to arguments that emphasize the tradition and continuity of Japanese whaling, other cultural preservationists used a variant of cultural relativism to support whaling, suggesting that criticism of another culture's customs is cultural imperialism. In the words of an editorial in *Yomiuri Shimbun*:

The IWC should not only think about protecting the environment, but should also think about whaling industries and food supplies. Regarding effective utilization of whales, the IWC should pursue mutual understandings of the values and food customs of others.⁶⁴

⁶³ *Asahi Shimbun*, November 14, 1984, "Gyōkai ni Ikidoori to Rakutan [Indignation and Dejection in the Industry]," p. 2.

⁶⁴ *Yomiuri Shimbun*, June 12, 1978, "Anteiteki na Hoge no Sōgyō wo Motomeru [Requesting a Stable Whaling Operation]," editorial, p. 5.

In short, *Yomiuri* is arguing that the environmentalists are not the only ones with values that need to be respected, and the values (as well as food customs) of the Japanese should be taken into consideration as well. This sort of argument is often made with reference to specific food customs of other cultures; for example, the argument that westerners eat livestock and Japanese eat whale,⁶⁵ or the argument that, if practices like dove hunting and bull fighting are not banned for barbarism, than whaling should not be banned either.⁶⁶

C. Science and the Failed Attempt to Build Consensus

Cultural preservationist proponents of Japanese whaling often pair their appeals to Japanese tradition with appeals to science. This type of argument—that, a ban on whaling is an attack on good science as well as an attack on Japanese tradition—is an extremely common one. Foreign Minister Abe Shintaro (the father of the present Prime Minister), made this argument in a Diet committee meeting shortly before Japan agreed to lift its objection to the moratorium on commercial whaling:

The reason that we have an objection to the moratorium on commercial whaling is that the idea of putting a total moratorium on all whale resources without taking into consideration the specific situation of particular resources lacks a scientific basis. That is the first reason. Another reason is that the moratorium completely disregards the importance of our country's food customs, and the rootedness of whaling in our countries traditions and culture, as well as the important role that the whaling industry plays in regional industries. That is why we objected to the moratorium.⁶⁷

Both of the arguments that Abe makes in this statement have been extremely common in the period in which I studied. Moreover, elites have also frequently followed Abe

⁶⁵ *Yomiuri Shimbun*, June 21, 1977, “Kagakuteki Tachiba ga Hoshii Hogeï Kaigi [A Whale Meting that Wants a Scientific Standpoint],” editorial, p. 5; James Brooke, October 19, 2002, “The Saturday Profile: An Environmentalist who Loves to Eat Whales,” p. A4.

⁶⁶ *Nihon Keizai Shimbun*, July 19, 1980, “Hogeï Kinshi ni Hantai Suru [Opposition to a Ban on Whaling],” editorial, p. 2.

⁶⁷ Japanese Diet. Upper House. Budget Committee, 14th Meeting, March 25, 1985.

example and joined these two arguments together, suggesting that banning whaling is both an attack on Japanese culture and contrary to science.⁶⁸

I contend that elites have used this tactic as an attempt to draw in other elites that are not committed cultural preservationists. In particular, they are targeting westernizers, hoping that the commitment of westernizers to promoting western values in Japan will make them sympathetic to the argument that a ban on whaling is contrary to western-style objective science. In one way, the proponents of this argument have been extremely successful; the notion that a moratorium on commercial whaling has no scientific basis permeates virtually all elite discourse in Japan. However, despite these successes, pro-whaling forces in Japan did not succeed in convincing Japan to keep its objection to the commercial whaling moratorium. This failure irks proponents of Japanese whaling to this day.

Why did proponents of Japanese whaling fail to convince westernizers to agree to keep the moratorium on commercial whaling despite convincing them that the moratorium had no scientific basis? Because, as was noted above in the discussion of westernizers, whaling proponents were not successful in convincing westernizers that Japan could conduct commercial whaling operations under an objection without becoming an international orphan. Moreover, Japan as an international orphan had material consequences in addition to ideational ones; in the negotiations leading up to the removal of the objection, the Japanese fishing industry was concerned with the way that continued commercial whaling might influence their profits, and bureaucrats from the Ministry of Foreign Affairs, particularly the North America Desk, were concerned that continued commercial whaling would make other negotiations with the United States more difficult.⁶⁹

Both scholarly and popular discussions of Japanese whaling frequently suggest that Japan does not comply with international norms regarding whaling. This type of focus obscures the contradictory nature of Japan's whaling policies during the last 40

⁶⁸ Also see *Yomiuri Shimbun*, June 21, 1977, "Kagakuteki Tachiba ga Hoshii Hoge Kaigi [A Whale Meting that Wants a Scientific Standpoint]," editorial, p. 5; *Nihon Keizai Shimbun*, July 19, 1980, "Hoge Kinshi ni Hantai Suru [Opposition to a Ban on Whaling]," editorial, p. 2.

⁶⁹ Interview with subject W27, Tokyo Japan, November 17, 2005.

years – accepting the commercial whaling moratorium in 1985 and reduced catch quotas that devastated Japan's whaling industry in the 1970s while continuing to carry out annual scientific whaling expeditions in the face of massive international criticism. This chapter's explains the contradictory nature of Japan's whaling policy with reference to substantial domestic disagreements in Japan about the nature of Japan's national identity and Japan's role in the world.

Chapter 4: Refugee Admissions

Throughout the postwar period, most advanced industrialized states have granted asylum to a substantial number of refugees. Advanced industrialized states have also frequently instituted annual quotas or targets for refugee admissions. However, Japan stands out as an anomaly in terms of both actual numbers of refugees and the scope and size of annual refugee quotas. Japan's annual refugee admissions are small compared with all states with economies of similar sizes and even with many states with significantly smaller economies. Moreover, in the entire postwar period Japan has only adopted refugee quotas to deal with one specific group of refugees: the Indochinese refugees who fled between 1975 and 1994. Even as Japan was establishing quotas to admit some Indochinese refugees, Japanese government officials were attempting to establish that the admissions of Indochinese refugees was an anomaly rather than a precedent, and that future groups of refugees should not expect the same treatment. True to these claims, in the aftermath of the Tiananmen Square crackdown of 1989, Japan did not grant asylum status to any of the Chinese students that were residing in Japan.

This chapter explains the formation of Japan's asylum policies, focusing on the failure of Japan to adopt refugee quotas that address populations other than Indochinese refugees. I trace the process through which Japan adopted quotas for Indochinese refugees in the 1970s and 1980s, noting in particular the steps that Japan took to limit the precedent that Indochinese quotas set for future Japanese policies. I argue that Japan did not comply with international norms and adopt broad quotas for refugee admissions because elites did not succeed in finding a way to frame large-scale refugee admissions in a manner that appealed to both westernizers and cultural preservationists. While westernizers frequently suggested that an increase in refugee admissions would improve Japan's standing in international society, cultural preservationists were concerned that refugee quotas might lead to an influx of refugees from other Asian countries, which was distressing to cultural preservationists in light of their belief in Japanese ethnic homogeneity. Cultural preservationists were particularly wary of liberalization of

refugee admission because even those who supported liberalization argued that it would weaken Japan's ethnic homogeneity.

This chapter begins with a summary of the recent history of refugee admissions in Japan. Second, I outline the inadequacy of the alternative explanations outlined in Chapter 1 in explaining the development of Japan's refugee policy, and finally I develop my own explanation for the formation of Japan's refugee policy.

I. Refugees Admissions in Japan

Two of Meiji Japan's first refugees were high profile figures: Sun Yat-sen and Kim Ok-Kyun – leaders of major resistance movements against the Chinese and Korean states, respectively (Mukae 2001: 60-66).⁷⁰ In addition to these prominent cases, Japan also had contact with two larger populations of refugees: anti-communist Russians fleeing the Russian revolution and Jews fleeing Nazi Germany. Although the relevant papers were destroyed in World War Two fires, circumstantial evidence suggests that between 300 and 400 Russian refugees were admitted to Japan in the wake of the Russian revolution, in which Japan had intervened on the side of the Whites (Mukae 2001: 66-68). Japan quickly took measures to stem the tide of potential refugees from Russia; in 1920 Japan refused to grant landing permission to Russian refugees in order to avoid a "misunderstanding" with the Soviet government (Mukae 2001: 68). Between 1938 and 1941, 17,000 Jews fled German-controlled territories to Japan-controlled Shanghai, and in 1941, 1,100 Jewish refugees from Poland reached Kobe thanks to the heroic efforts of Japanese diplomat Sugihara Chiune, who granted those refugees visas against orders from his government (Mukae 2001: 74-90).

In the immediate postwar period, Japan did not participate very seriously in the international refugee regime. While there were a few high profile cases of fleeing Soviets before 1975 (Takeda 1998: 436-437), those people were given temporary residency in Japan and then transferred to other countries. This situation began to change on April 30, 1975, just as the last American helicopter evacuated Saigon, ending the

⁷⁰ Kim Ok-Kyun led a Japan-supported coup attempt in Korea in the 1880s.

American participation in the Vietnam War. On that same day, around 100 Vietnamese living in Guam approached the honorary Japanese embassy in Guam and requested asylum.⁷¹ On May 6, the Ministry of Education sent a communication to heads of private and public universities clarifying the position of the Ministry of Justice regarding the more than 1,000 students from Cambodia and Vietnam currently at Japanese universities. According to the communication, old passports would be accepted as identification until Japan formally established relations with the new regimes. Students who wanted to stay in Japan after graduation would be treated on a case-by-case basis.⁷²

On May 11, nine refugees who had fled Vietnam in makeshift boats reached Chiba, Japan on an American container ship that had rescued the refugees at sea. Before arriving in Japan, the American ship had called at Indonesian, Singaporean, and Malaysian ports, but all three of those countries had refused to allow the refugees to disembark. One day after their arrival in Japan, the refugees were flown to Guam, where they would submit applications for asylum status from the United States.⁷³ Between May of 1975 and June of 1979 (when Japan hosted its first G7 meeting), 2,250 Indochinese refugees arrived in Japan or were born in Japan.⁷⁴ The vast majority of those refugees were given temporary residency status while Japan searched for countries where those

⁷¹ *Asahi Shimbun*, May 1, 1975, "Hyakunin ga Nihon Ijū wo kibō [100 People Want to Live in Japan]," p. 3.

⁷² *Yomiuri Shimbun*, May 7, 1975, "Betonamu Ryūgakusei; Benkyōchū ga Zairyū Hoshō [Vietnamese Foreign Exchange Students; Those Currently Studying get Residence Guarantees]" p. 2.

⁷³ *Yomiuri Shimbun*, May 13, 1975, "Chibakō e Kyūnin Sugu Guamu e [The 9 Who Arrived in Port Chiba Will Soon go to Guam]" p. 1. *Asahi Shimbun* did not report on this group of refugees, and instead called two boys that landed in Kitakyushu on May 12 the first group of boat people to arrive in Japan. *Asahi Shimbun*, May 12, 1975, "Minami Betonamu no Nanmin Futari, Kyō Hachimankō e; Hatsū no Keesu ni Tomadō Seifu [Two Refugees from South Vietnam Will Arrive Today in Hachiman; The Government is Baffled by the First Case]," p. 3. A government report confirms that the Chiba nine were the first refugees to reach Japan, but suggests that they landed on May 12, not May 11. *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1980. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], p. 7.

⁷⁴ *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1980. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], pp. 8-18.

refugees might settle. Of the 2,250 refugees, only 10 were given long-term residency status in Japan.⁷⁵

Table 4.1: Japan's Resettlement of Indochinese Refugees Compared with Other G7 countries⁷⁶

	1975-81	1982-1994	Total
USA	421,351	390,234	811,585
Canada	77,588	57,960	135,548
France	72,626	22,976	95,602
England	15,441	4,266	19,707
Germany	19,371	47	19,418
Japan	1,209	7,226	8,435
Italy	2,856	216	3,072

Japan began to change its approach to Indochinese refugees in the period leading up to the G7 meeting in Tokyo. Most significantly, on April 28, 1978, Prime Minister Fukuda Takeo announced that Japan would begin to accept refugees as settlers, rather than just temporary residents (Mukae 2001: 105, 107). The screening criteria for aspiring settlers was strict; among other requirements, settlers needed a Japanese guarantor or adoptive parent, and they also needed to prove that they would “carry out a virtuous life as a member of society.”⁷⁷ The Japanese media suggested that the timing of this announcement was related to Fukuda's scheduled visit to the United States five days after the announcement was made.⁷⁸ Around one year later, on April 3, 1979, Japan instituted its first refugee quota in a cabinet understanding, and no longer required refugees to secure a guarantor as a prerequisite for attaining residency status.⁷⁹ This quota was set to 500; it was smaller by many orders of magnitude than the quotas of other advanced

⁷⁵ *Asahi Shimbun*, June 28, 1979, “Nanmin Ichike Yonnin ni Teijū Kyoka [A Family of Four Refugees Given Residency Permission],” p. 3.

⁷⁶ Source: *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1987, 1994. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], p. 11.

⁷⁷ *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1980. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], pp. 52.

⁷⁸ *Nihon Keizai Shimbun*, April 28, 1978, “Betonamu Nanmin Teijū Mitomeru [Residency for Vietnamese Refugees to be Approved],” p. 1.

⁷⁹ *Nihon Keizai Shimbun*, April 3, 1979, “Teijūwaku Gohyakunin ni; Kyoka Jōken mo Kanwa [Residency Quota set to 500; Permission Terms are also Relaxed],” Evening Edition, p. 2.

industrialized states. This number was gradually raised throughout the 1980s, reaching 10,000 in 1985 (Takeda 1998: 434).

It might seem misleading to argue that Japan did not comply with international refugee admission norms, considering that by 1985 Japan established an annual quota of 10,000 Indochinese refugees. However, there are three reasons that it is reasonable to suggest that Japan did not comply with international refugee admission norms in the 1970s and 1980s. First, unlike other G7 countries, Japan did not accept Indochinese refugees for more than three years after Saigon fell, and even then the numbers were extremely small. Second, although Japan did eventually establish a more substantial quota for admissions of Indochinese refugees, the quota did not reach 10,000 until ten years after the fall of Saigon. By this time, the existence of substantial populations of Indochinese refugees in other G7 countries ensured that those other countries were more desirable destinations than Japan, and thus Japan's total admissions of Indochinese refugees for settlement were less than 10,000, Japan's annual quota in 1985. See Table 4.1 for data on both Japan's slow start in Indochinese refugee resettlement and its relatively small total admissions of Indochinese refugees.

Third, even as Japan was expanding its quotas for Indochinese refugees, Japanese government publications were taking pains to limit the precedent that the admission of Indochinese refugees would have on possible admission of other refugee populations. In 1987, two years after Japan first established its 10,000 quota, the inter-ministry Liaison and Coordination Council for Indochinese Refugees and Displaced Persons (herein called the Liaison Council), published a report which argued that Indochinese refugees are not actually refugees according to the definition established in the UN Convention Relating to the Status of Refugees (herein called the Refugee Convention), and that Japan was granting those people refugee status because that is what the UN High Commission on Refugees (UNHCR) and UN General Assembly had requested.⁸⁰ This kind of restrictive interpretation of the Refugee Convention has not been limited to the Liaison Council; a

⁸⁰ *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1987. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], p 11.

Ministry of Foreign Affairs bureaucrat has criticized the annual refugee quotas of other countries because he suggested that, in order to fill those quotas, countries frequently admit people that are not refugees as defined in the Refugee Convention.⁸¹

The Japanese state's interpretation of the Refugee Convention suggested that Japan was not legally obligated to treat the Indochinese boat people as refugees, and thus this interpretation gave the Japanese state a great deal of leeway in dealing with other crises. Even after the Tiananmen Square massacre in 1989, the Liaison Council's annual reports did not mention political refugees from China in their discussion of "refugee flow conditions," although the introductory sections of each report after Tiananmen Square did discuss the problem of Chinese posing as Vietnamese boat people.⁸² In the years following the Tiananmen Square massacre, Japan did not grant refugee status to any of the Chinese residing in Japan. It was not until 2002, thirteen years after the Tiananmen Square massacre, that Japan first granted asylum status to a Chinese person fearing reprisal for pro-democracy activism.

II. Alternative Explanations

A. Hegemonic Stability Theory

I will now examine the ability of the alternative explanations outlined in Chapter 1 to explain Japan's compliance with international norms regarding refugee admissions. For a summary of this discussion, please see Table 4.2. The first alternate explanation, hegemonic stability theory, suggests that states comply with international norms because of pressure from the most powerful states in the international system. Chapter 1 identified three observable implications of this theory: compliance should be more likely when America asks Japan to comply with a norm, when America makes credible threats to enforce the norm, and that compliance should increase as the credibility of the threats

⁸¹ Interview with subject R44, March 16, 2006, Tokyo, Japan.

⁸² *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1990-1994. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons].

increases. Japan's pattern of refugee admissions does not provide evidence to support Hegemonic Stability Theory; Japan admitted only small numbers of Indochinese refugees despite repeated American requests that Japan increase its admissions.

Prime Minister Fukuda's announcement that Japan would begin to admit Indochinese refugees as residents was made on April 28, 1978, just five days before Fukuda's scheduled visit to the United States. The moderate *Nihon Keizai Shimbun* suggests that the announcement was directly related to Fukuda's upcoming visit: "It seems that the road of calming American criticism is being followed."⁸³ On December 14, 1978, the Ministry of Foreign Affairs announced that Japan would increase its admissions of refugees as residents.⁸⁴ This announcement was made on the same day that Japan's Ambassador to the United States told Japanese Prime Minister Ohira that the United States would like Japan to increase its admissions of Indochinese refugees as residents.⁸⁵

American criticism of Japan's refugee policy was most concentrated and intense in the months before Japan was to host its first G7 summit, scheduled for June 28-29, 1979 (herein called the Tokyo Summit). In May, an anonymous source told a reporter from *Yomiuri Shimbun* that President Carter voiced criticisms of Japan's refugee policy in a meeting with the Japanese Prime Minister.⁸⁶ On June 7, Richard Holbrooke, Assistant Secretary of State for East Asian and Pacific Affairs, made a statement at a House hearing to the effect that the administration hoped that Japan would improve its refugee policy, although he criticized other countries admissions of Indochinese refugee policy as well (Mukae 2001: 113). On June 16, Japanese government reports indicated

⁸³ *Nihon Keizai Shimbun*, April 27, 1978, "Betonamu Nanmin Teijū Mitomeru [Vietnamese Refugees to be Admitted As Residents]," p. 1.

⁸⁴ Although Japan had begun to admit Indochinese refugees as residents in April, as of December 14 Japan had not granted residency status to any applicants; *Asahi Shimbun*, December 15, 1978, "Teijū Jōken wo Kanwa he; Gaimushō, Taisaku ni Hongoshi [Toward Relaxation of Residency Procedures ; Ministry of Foreign Affairs Makes Policy in Earnest]," p. 2.

⁸⁵ *Yomiuri Shimbun*, December 15, 1978, "Nihon ni Tsuika Kane Semaru; Nanmin Kyūsai de Kokuren Jimusho [Japan Pressed for Supplemental Funding; Refugee Relief at the UN Office]," p. 2.

⁸⁶ Kawaguchi Hiroyuki, *Yomiuri Shimbun*, June 19, 1979, "'Nanmin' Hōtte Okenai 'Seiji Ego' to Hinan ha Yōi ['Refugees' Cannot be Thrown Away; It is Easy to Criticize Japan's 'Political Ego']," p. 5.

that the United States had asked Japan to expand its annual Indochinese refugee quota from 500 to 10,000 per year.⁸⁷

During his visit to Japan for the G7 meeting itself, President Carter criticized Japan's refugee admissions on several occasions, although his public criticisms were substantially more muted than Japanese press reports of his private criticisms. On June 20, Carter told the Japanese press that "the United States is accepting a very large number of refugees. Japan has accepted very few. I think that when Prime Minister Ohira was over here, the total number of refugees accepted in Japan was only three." Carter went on to note Japan's financial support of refugee protection efforts. He also suggested that Japan might have a more difficult time than the United States admitting refugees because Japan is ethnically homogeneous while the United States is "a nation that is comprised of refugees or immigrants."⁸⁸ In a town meeting in Shimoda, Japan, Carter echoed similar themes, saying that "Japan has been very generous in its financial contributions, but because of the homogeneous nature of your own society, Japan has not yet decided to receive very many of the Vietnam refugees."⁸⁹

In the midst of this American criticism, Japan made some changes in refugee policy. On May 9, 1979, Japan granted residency status to a Vietnamese woman and her two children – the Iguchi family. Iguchi is actually a Japanese name; Mrs. Iguchi was married to a Japanese man who had died.⁹⁰ On June 18, Prime Minister Ohira announced that Japan must "seriously consider" expanding its annual quota beyond 500,⁹¹ and immediately following the G7 meeting, Ohira publicly pledged to expand Japan's admissions of Indochinese refugees (Dobson 2004: 37). In the years following the Tokyo Summit, Japan gradually expand its quota for Indochinese refugees, but the quota did not

⁸⁷ *Yomiuri Shimbun*, June 17, 1979, "Nanmin Ukeiru, Bei Yōsei; Nihon ni Ichiman Nin Ijō [An American Request Regarding Refugee Admissions; More than 10,000 Per Year]," p. 2.

⁸⁸ *Public Papers of the Presidents of the United States: Jimmy Carter: 1979, Book 2*, 1980 (Washington, D.C.: United States Government Printing Office): p. 1150-51.

⁸⁹ *Public Papers of the Presidents of the United States: Jimmy Carter: 1979, Book 2*, 1980 (Washington, D.C.: United States Government Printing Office): p. 1173.

⁹⁰ *Asahi Shimbun*, May 9, 1979, "Nanmin Waku Kakudai Dai Ichi Go [The First Expansion of the Refugee Quota]," Evening Edition, p. 10.

⁹¹ *Asahi Shimbun*, June 18, 1979, "Nanmin Teijūwaku ōhaba ni Kakudai he [Toward a Large-scale Increase in the Refugee Quota]," p. 1.

reach 10,000—the size that the U.S. had requested— until 1985. Prime Minister Ohira Masayoshi announced one of those quota increases—the 1980 increase in the annual quota from 500 to 1,000—on a trip to the United States, and an unnamed source close to the Prime Minister indicated that President Carter had asked Japan to help out more with Cambodian refugees on that visit.⁹²

Powerful actors in the U.S. government, including President Carter, clearly wanted Japan to admit more Indochinese refugees, and while Japan expanded its refugee quotas and admissions, these expansions were at a much slower rate than the United States had requested. However, this is not an easy case for Hegemonic Stability Theory; although America asked Japan several times to increase its refugee admissions, these requests were never backed up with any kind of threats. Still, when considered in conjunction with Chapter 2's discussion of Japan's treatment of foreign residents—where Japan complied with international norms in the complete absence of U.S. requests or threats—this dissertation suggests that U.S. pressure alone is neither a necessary nor sufficient condition for Japanese compliance with international norms.

B. Liberal Institutionalism

Liberal institutionalism suggests that states comply with international norms when those norms have the support of international institutions with strong monitoring and enforcement capacities. In the case of Japan's refugee admissions, the relevant international institution is the UNHCR. The UNHCR has moderate monitoring capacities. It currently has a staff of 6,689 people in 116 countries, and it regularly publishes detailed reports about refugee flows across the world.⁹³ However, the UNHCR's monitoring capacities are severely limited in that it lacks a "formal supervisory body with a mandate to review state performance" (Barnett 2002: 245-46). This deficiency substantially weakens the UNHCR's enforcement capacity as well, as it

⁹² *Nihon Keizai Shimbun*, May 10, 1980, "Nanmin Teijūwaku Baizō; Seifu, Kongetsu nimo Seishiki Kettei [Refugee Quota to Double; Government to Publicly Announce as Early as the End of the Month]," Evening Edition, p. 1.

⁹³ UN High Commission on Refugees, "Basic Facts," April 2, 2007, April 2, 2007, <http://www.unhcr.org/basics.html>.

leaves the UNHCR without material tools to hold states accountable for violations of international refugee laws.

Because the UNHCR has only moderate monitoring capacity and extremely limited enforcement capacity, it is not surprising from the perspective of liberal institutionalism that Japan has not complied with international norms regarding refugee admissions. However, liberal institutionalism does not seem to provide the theoretical tools to explain why Japan made *any* changes in refugee policy (including instituting and gradually raising quotas, as well as ratifying the Refugee Convention in 1981). Moreover, liberal institutionalism has more difficulty explaining the variation in Japan's compliance with international norms; as Chapter 2 suggests, in spite of similarly weak international institutions supporting international norms regarding the treatment of foreign residents, Japan has made substantial steps to comply with those norms.

C. Constructivism-Persuasion

Constructivism-persuasion suggests that dialogue with international society draws states into compliance with international norms. Dialogue is most likely to draw a state into compliance when the pro-compliance position has the support of a treaty that the state has ratified or an epistemic community with substantial legitimacy. This theory has two observable implications relevant to cases of low compliance: non-compliant states are less likely to have ratified relevant international treaties, and non-compliant states are less likely to participate in dialogue with international society.

Japan's response to international treaties appears to violate both observable implications of constructivism-persuasion. First, Japan ratified the Refugee Convention in 1981. However, this ratification is less significant than it might initially appear because the Refugee Convention does not require states to admit refugees; while Article 33 of the Convention forbids ratifying states from returning a refugee to a country where "his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion," no provision in the convention requires states to *admit* refugees.

Still, constructivism-persuasion is ultimately a theory about dialogue between states and international society, and Japan failed to admit large numbers of Indochinese refugees as residents in spite of dialogue between Japan and international society. In addition to the dialogue with the United States noted above, Japan also engaged in dialogue with leaders of international organizations about issues relating to admissions of Indochinese refugees. In early September 1977, the UNHCR asked the Japanese Embassy in Geneva if Japan would start accepting Vietnamese refugees as permanent residents.⁹⁴ Later that same month, Foreign Minister Hatoyama Iichirō had a brief meeting with UN Secretary General Kurt Waldheim, and Waldheim asked Japan to respond more generously to the Vietnamese refugee issue. Hatoyama replied that he and Prime Minister Fukuda agreed that Japan should improve its refugee policy.⁹⁵

In May of 1978, Prime Minister Fukuda met with Secretary General Waldheim. Fukuda told Waldheim that Japan was changing its refugee acceptance policies but it could not change them too much, because “our country is an island nation without room for Vietnamese refugees to settle, but if fixed conditions are provided, we would like to admit refugees.”⁹⁶ Waldheim was not the only UN official to criticize Japan’s refugee policy; in 1979, as the Cambodian refugee situation became more desperate, Unicef Executive Director Henry R. Labouisse told Japan’s center-right daily *Yomiuri Shimbun* that Japan should be more proactive in its response to the Cambodian refugee crisis.⁹⁷

In addition to UN and US officials, other national leaders also used the occasion of UN Conferences on Indochinese Refugee issues to ask Japan to accept more refugees. At the June 20-21 Conference, Malaysia proposed to establish a refugee processing

⁹⁴ *Nihon Keizai Shimbun*, September 16, 1977, “Iryō Enjo ya Shokugyō Kunren; Sōrifu ni Taisaku Honbu [Medical Assistance and Job Training; The Prime Minister’s Office to the Policy Division],” p. 2.

⁹⁵ *Yomiuri Shimbun*, September 27, 1977, “Nanmin Taisaku Kaizen wo; Wa Sōcho, Hatoyama Gaishō ni Yōsei [Toward An Improvement of Refugee Policy; A Request from Secretary General Waldheim to Foreign Minister Fukuda],” evening edition, p. 1.

⁹⁶ *Nihon Keizai Shimbun*, May 5, 1978, “Betonamu Nanmin Kyūsai; Shushō ga Seishiki Dentatsu [Aid to Vietnamese Refugees; The Prime Minister Formally Announces],” p. 1.

⁹⁷ *Yomiuri Shimbun*, November 17, 1979, “Rikukairo de Zōryō Chakuchaku; Yunisefu Jimukyokuchō Kataru [From Land and Sea they are Steadily Increasing; the Unicef Executive Director Speaks],” p. 7.

center on Okinawa.⁹⁸ The Governor of Okinawa, Nishime Junji, had earlier indicated his support for allowing Indochinese refugees to settle on Okinawa as agricultural laborers. Nishime argued that this would deal with both Okinawa's under-population problem and Japan's international image: "Japan has been criticized internationally for its refugee admissions, so I thought we could admit some refugees."⁹⁹ However, Japan's representative at the UN meeting, Foreign Minister Sonoda Sunao, did not support the establishment of a refugee processing facility on Okinawa,¹⁰⁰ and on the second day of the UN meeting, Mihara Asao, the Director General of the Okinawa Development Agency, made it clear that the central government did not support Governor Nishime's attempt to settle Indochinese refugees in Okinawa.¹⁰¹

Ryukoku University Professor Tanaka Hiroshi summarized the dialogue between Japan and international society regarding Indochinese refugees as follows:

With the travel itinerary of things like United States/Japan Summit Meetings, Annual [G7] Summits, and the UN Conferences on Indochinese Refugees, there were regularly small adjustments to refugee policy (1995: 157).

In short, despite these conversations between Japanese leaders, foreign leaders, and the heads of major international organizations, Japan's admissions of Indochinese refugees were low relative to other industrialized countries, as discussed above. This suggests that constructivism-persuasion is not able to account for Japan's response to international norms regarding refugee admissions.

D. Constructivism-Internalization

Constructivism-internalization suggests that states comply with international norms when elements of the domestic state and/or civil society form alliances with

⁹⁸ *Nihon Keizai Shimbun*, July 4, 1979, "Okinawa nimo Nanmin Sentaa wo [A Refugee Center Also in Okinawa]," p. 5.

⁹⁹ *Nihon Keizai Shimbun*, June 23, 1979, "Nōgyō Kaihatsusha de Nanmin Ukeire [Let in Refugees as Agricultural Developers]," p. 2.

¹⁰⁰ *Nihon Keizai Shimbun*, July 21, 1979, "Nanmin Chjūkei Sentaa; Okinawa Secchi Arienu [Refugee Relay Center; It Cannot be Built on Okinawa]," p. 4.

¹⁰¹ *Nihon Keizai Shimbun*, July 22, 1979, "Mihara Chōkan mo Hitei; Nanmin no Okinawa Ukeire [Director General Mihara Also Refuses; Admission of Refugees to Okinawa]," p. 2.

international civil society and use those norms to demand change. This argument had two observable implications: compliance is more likely when domestic courts use international law to demand change, and when domestic NGOs form links with elements of international society.

In short, constructivism-internalization predicts that low compliance with international norms has two causes: the reluctance of domestic courts to refer to those international norms in their judgments, and the reluctance of domestic NGOs to form alliances with international civil society based on their activism. Both of these causes are present in the case of Japan's refugee admission policy. Japanese courts have been extremely unlikely to rule against the government, particularly in human rights cases (Hamano 1999; Iwasawa 1998). One case where Japanese courts declined to invoke international refugee law occurred in 1976, when the Japanese Supreme Court ruled that Japan could deport a South Korean, Yoon Su-gil, despite the very real possibility that he would be arrested as a political prisoner in South Korea. The Supreme Court's decision overruled a lower court decision from 1969 which suggested that the principle of non-refoulement of refugees was a part of customary international law, and that deporting Mr. Yoon was therefore a violation of international law (Mukae 2001: 1000).¹⁰²

Japanese NGOs, including those with strong international links, have also been reluctant to pressure Japan to admit more refugees. NGOs have been much more concerned with the treatment of refugees once they reach Japan than with promoting policies which would encourage Japan to admit more refugees.¹⁰³ When I interviewed activists with several of the most important refugee NGOs in Japan, none mentioned convincing Japan to adopt an annual refugee quota as a goal of their group.¹⁰⁴

¹⁰² The 1969 decision in a Tokyo District Court in favor of Mr. Yoon was overruled by the Tokyo High Court in 1972, and the Supreme Court upheld the Tokyo High Court's judgment in 1976.

¹⁰³ Amnesty International wrote a report in 1993 that was critical of Japan's treatment of refugees (Amnesty International 1993), and the Ministry of Justice responded to the report, defending their practice (Kojima Kyoji, Director, Ministry of Justice Refugee Recognition Division, "Comments Regarding the Amnesty International Report entitled, Japan: Inadequate Protection for Refugees and Asylum-seekers," cited in Mukae 2001: 153)

¹⁰⁴ Interview with subject R35, November 14, 2005, Tokyo, Japan; Interview with subject R36, November 18, 2005, Tokyo, Japan; Interview with subject R37, November 30, 2005, Tokyo, Japan.

Table 4.2: Alternative Explanations for Compliance with Refugee Norms

THEORY	OBSERVABLE IMPLICATIONS	PREDICTED VALUE	ACTUAL VALUE
Hegemonic stability/reactive state	U.S. Japan dialogue about compliance	Absent	Existent
	U.S. credible threats about compliance	Absent	Absent
	Increasing severity of threats → Increasing compliance	no threats	no threats
Liberal Institutionalism	Increasing monitoring capacity → increasing compliance	low monitoring capacity	moderate monitoring capacity
	Increasing sanctioning capacity → increasing compliance	low sanctioning capacity	low sanctioning capacity
Constructivism-persuasion	Ratification of treaties → compliance	No ratification of key treaty	ratification of key treaty
	Scientific consensus → compliance	N.A.	N.A.
	dialogue between Japan and international society precedes compliance	limited dialogue	substantial dialogue
Constructivism-internalization	Court precedent → compliance	passive courts	passive courts
	Local NGO links with TNGOs → compliance	few local NGO links with TNGOs	few local NGO links with TNGOs

Of the three cases that this dissertation considers, the case of refugee admissions provides the best evidence for constructivism-internalization. Courts are reluctant to cite international law, domestic NGOs do not establish links with international society to demand change, and Japan admits an extremely small number of refugees. However, in *none* of the cases I consider did courts and/or domestic NGOs use links with international society to demand compliance, and yet compliance with international norms regarding foreign residents is relatively high, and compliance with international norms regarding refugee admissions is moderate. Constructivism-internalization is thus a flawed tool to explain Japan's compliance with international norms.

III. Contested National Identity and Japan's Refugee Admissions

A. The Separatist Idea and Postwar Refugee Admissions

The postwar elite consensus on the separatist idea discussed in Chapter 2 had an impact beyond shaping Japan's policy toward foreign residents. The separatist idea's assumption that foreigners don't belong in Japan and should be encouraged to leave was reflected in Japan's refugee policy as well; postwar Japan simply did not have a policy for admitting refugees as residents. The question of whether Japan should change this approach was discussed in the Diet several times before the Indochinese refugee crisis. During a 1963 meeting of the Diet's Justice Committee, Socialist Party Diet Member Kameda Tokuji indicated his unhappiness with the Japanese failure to ratify the UN Refugee Convention:

Because the common sense has developed worldwide that it is a bad thing to forcibly repatriate political prisoners, and because after the UN Refugee Convention was passed 39 countries have ratified it, I think that it gives an unpalatably passive impression that we haven't ratified the treaty.¹⁰⁵

In response, Tomita Masanori, the Deputy Chief of the Immigration Bureau, suggested that the treaty was created to deal with a specific immediate postwar refugee crisis, and that even the countries involved with the treaty initially believed that the crisis would soon be averted. Tomita went on to suggest that domestic problems in Japan make it difficult to ratify the treaty:

In the case of our country, regarding becoming a party to the UN Refugee Convention and actively admitting large numbers of refugees, there are various problems of population, labor situation, etc., and it would not be easy to take a course. Also, regarding the transfer of control over White Russians from the Chinese Communist Party and others after the war, the treatment of this kind of problem can be thoroughly managed under domestic law. For the present the scope of Immigration Bureau can take care of this problem.... However, as a problem for the future, if this develops as an international and truly global problem, if that stage is reached, I think that, even as Japan, we will have to naturally reflect on this.¹⁰⁶

¹⁰⁵ Japanese Diet. House of Councillors. Justice Committee, 15th Meeting, May 28, 1963.

¹⁰⁶ Japanese Diet. House of Councillors. Justice Committee, 15th Meeting, May 28, 1963.

It is interesting to note both the points of agreement and the points of disagreement between Kameda and Tomita. Both figures seem to accept the notion that, if the idea enshrined in the UN Refugee Convention does become international “common sense,” then Japan should ratify the treaty. In short, both suggest that it is important for Japan to understand and obey international norms. This assumption underlies much of the elite debate in Japan about Japan’s refugees. In short, virtually all elites agree that, all things being equal, it is better for Japan to act like a typical advanced industrialized country.

However, examining the difference between Kameda and Tomita highlights the major difference between westernizers and cultural preservationists. The main difference between the two men in this exchange is that, unlike Kameda, Tomita is concerned with unspecified domestic problems that would come from large scale refugee admissions, including “various problems of population, labor situation, etc.” While virtually all elites in postwar Japan have agreed that, Japan should try to emulate other advanced industrialized countries, elites differ in how they weigh this value against other values, including preserving Japan’s homogeneous culture. For westernizers like Kameda, the most important thing is that Japan adopt policies that are appropriate given their conception of Japan as an advanced industrialized country. However, for cultural preservationists like Tomita, the most important thing is that Japan adopt policies that are appropriate given their conception of Japan as an ethnically homogeneous country.

In 1962 Tomita’s position reflected an elite consensus. Elite challenges to this position—such as Kameda’s—were relatively rare, and when such challenges were issued, the challengers were usually relatively weak elites – members of minority parties, such as Tomita, or members of a pro-UN Refugee Convention group of lawyers and law professors. This began to change in the 1975, as increasing numbers of elites began to challenge Japan’s refugee policy as inappropriate for an advanced industrialized country.

B. Westernizers

After the fall of Saigon in 1975, increasing numbers of Vietnamese, and later Laotians and Cambodians, fled Indochina in boats. Merchant ships picked up some of

those fleeing, and many of those ships made calls at Japanese ports. There was a major international effort to deal with these refugee populations, under the leadership of the UNHCR and western states. During this period, a substantial number of Japanese elites began to argue that Japan should move to admit refugees as residents. In 1979, the Japanese representative to the UNHCR, Mise Hitoshi, criticized Japan's refugee policy with reference to the policies of western countries: "Japan's system of refugee admissions until now has been inadequate when compared with foreign countries."¹⁰⁷

Mise framed his criticism of Japan in terms of what other countries were doing, rather than in humanitarian terms. Because most of the countries that were active in admitting Indochinese refugees as residents were western advanced industrialized states, Mise's criticism suggested that Japan's policy was inadequate when compared with the west. This focus on international comparisons was common in the editorials and opinion pieces in the major Japanese dailies as well. A 1979 editorial in *Nihon Keizai Shimbun* argued that Japan's quota, which was 500 Indochinese refugees per year, was far too small, and should be raised to 10,000 per year in order to be comparable with other countries. Although the opinion piece uses vague language about who those other countries are, suggesting that Japan's refugee admissions are deficient "whichever country one looks at,"¹⁰⁸ the three examples of countries to which Japan is compared are West Germany, England, and the United States.¹⁰⁹

Similarly a 1977 opinion piece in *Asahi Shimbun* was critical of the paucity of Japan's admissions of Indochinese refugees when compared with western states,¹¹⁰ and a new analysis piece (*nyuusu shūhen*) in *Nihon Keizai Shimbun* compared Japanese refugee admissions unfavorably with the admissions of western states as well as Israel, Hong

¹⁰⁷ *Nihon Keizai Shimbun*, April 20, 1979, "Betonamu Nanmin no Nihongo Gakkou; Kamakura ni Gakumatsu Oopun [A Japanese Language School for Vietnamese Refugees; to Open in Kamakura by the End of the Month]," Evening Edition, p. 11.

¹⁰⁸ Donna kuni ni mitemo hikusuguru.

¹⁰⁹ *Nihon Keizai Shimbun*, June 24, 1979, Editorial, "Nanmin Mondai wo Shinken ni [A Serious Approach to the Refugee Problem]," p. 2.

¹¹⁰ Magami Yasunari, *Asahi Shimbun*, September 15, 1977, "'Teijū ni Nanshoku Shimesu Seifu; Kokusai Yoron no Hinan Tsuyomaru [A Government that is Unwilling for 'Residence'; Criticism in International Public Opinion Intensifies]," p. 4.

Kong, and Taiwan.¹¹¹ This perspective was not limited to opinion pieces and editorials; even a news article in the *Nihon Keizai Shimbun* called countries like the United States, Canada, and England “Advanced Countries for [Refugee] Settlement,” attaching the word “settlement” (teijū) to the word for “advanced industrialized countries” (senshinkoku).¹¹²

The Ministry of Foreign Affairs was clearly speaking to proponents of westernization when it complimented Japan’s 1981 expansion of its Indochinese refugee quota to 3000 with the argument that “In sum, by means of this, we have entered the same level as a small or mid-sized European state.”¹¹³ The same year, a Ministry of Foreign Affairs publication specifically discusses Japan as belonging to the West in regards to the Indochinese boat people crisis:

In this manner, as the core of international organizations, China, as well as the West—including Japan¹¹⁴—have begun a large-scale refugee relief effort, and as a result have gradually succeeded, and the tragic situation of the Indochinese refugees has been greatly improved, as the resettlement of refugees in third countries has been advanced.¹¹⁵

The Ministry of Foreign Affairs goes on to cite a statement from Prime Minister Ohira Masayoshi, that “as we get through the refugee crisis, the real door for our country’s internationalization has been opened.”¹¹⁶ This decision was also justified in the Japanese media with reference to the practices of Western states. *Nihon Keizai Shimbun* reported that:

The admissions of Indochinese refugees by *western advanced industrialized states* [italics added] are 320,000 by America, 69,000 by Canada, 67,000 by

¹¹¹ *Nihon Keizai Shimbun*, September 22, 1977, “Tsuyomaru Kokusai Hinan; Honne ha Ryūnyū no Toppakō Kenen [Intensifying International Criticism; The Real Feeling is Worry about a Breach to Inflows],” evening edition, p. 2.

¹¹² *Nihon Keizai Shimbun*, April 20, 1979, “Betonamu Nanmin no Nihongo Gakkou; Kamakura ni Gakumatsu Oopun [A Japanese Language School for Vietnamese Refugees; to Open in Kamakura by the End of the Month],” Evening Edition, p. 11

¹¹³ *Asahi Shimbun*, April 28, 1981, “Nanmin Teijū waku sanzen ni; Yōyaku Kakudai Kimeru [The Quota for Refugee Admissions set to three thousand; A Gradual Expansion Instituted],” p. 14.

¹¹⁴ wagakuni o fukumu nishigawa oyobi chūgoku...

¹¹⁵ *Indoshina Nanmin Mondai to Nihon [The Indochinese Refugee Problem and Japan]*, 1981. Tokyo: Gaimushō Jōhō Bunkakyoku [Ministry of Foreign Affairs Information and Culture Division], preface (unnumbered).

¹¹⁶ *Ibid*, p. 8.

France, 46,000 by Australia, but in Japan, after the cabinet understanding in June of last year, the refugee quota was set to only 1,000.¹¹⁷

This article clearly spelled out its frame of comparison for Japan's behavior: the western advanced industrialized states.

When discussing proposals to liberalize Japan's refugee policy, westernizers frequently make two assumptions. First, they assume that Japan is an ethnically homogeneous society. Second, they assume that liberalization of refugee admissions will undermine this ethnic homogeneity. These assumptions are clear in an editorial in the conservative *Yomiuri Shimbun* that was written in the wake of a UN conference dealing with the Indochinese refugee crisis. The *Yomiuri* editorial is in favor of liberalization of Japan's asylum policy to admit more Indochinese refugees, and it concludes with the argument that "It is an era in which we are requesting changes in the social and spiritual climate in our country—in which other ethnicities are firmly rejected."¹¹⁸ In short, *Yomiuri* argued that in order to admit large numbers of Indochinese refugees, Japan would have to change its ethnic homogeneity. This claim—that large-scale refugee admissions necessarily entail a sacrifice of Japan's ethnic homogeneity—was not seriously disputed in elite discussions of Japan's refugee policy in the 1970s and 1980s. It is not surprising then, that those who believe that Japan's ethnic homogeneity is an integral component of its national identity opposed such a policy.

¹¹⁷ *Nihon Keizai Shimbun*, April 28, 1981, Nanmin Teijū Waku; Sanzennin ni Kakudai [Refugee Settlement Quota; Expanded to 3,000],” p. 3.

¹¹⁸ *Yomiuri Shimbun*, July 23, 1979, Editorial, “Nanmin Kaigi no Seika to Kongo no Wadai [The Results of the Refugee Meeting and Problems for the Future],” p. 4.

C. Cultural Preservationists

Because both supporters and opponents of expanded refugee admissions agreed that such admissions would weaken Japan's claims to monoethnicity, it is not surprising that cultural preservationists—those who believe that Japan's monoethnicity is an essential component of its national identity—opposed refugee admissions.

Preservationists frequently voiced three objections to large-scale refugee admissions in the 1970s and 1980s: 1) Japan is a small, resource poor, and overpopulated country; 2) if Japan begins to admit refugees, it will one day be faced with massive numbers of refugees from other Asian trouble spots; and 3) refugee admissions are not consistent with Japanese tradition.

The first argument, that Japan is small, resource poor, and overpopulated, was articulated in reports from the Liaison Council.¹¹⁹ This argument also came up in discussions between mid-level bureaucrats in June 1977. On the same day that the Chief Cabinet Secretary, the Minister of Justice, the Minister of Foreign Affairs, and the Director General of the Prime Minister's Office met to discuss the possibility of allowing the settlement of refugees who lacked another place to go, mid-level (*jimu reberu*) bureaucrats in a related meeting indicated that they believed that Japan was too overpopulated to admit refugees for settlement, and that Japan should instead make financial contributions to UN efforts to help refugees and improve the situation of refugees temporarily in Japan.¹²⁰

The cabinet and mid-level talks of 1977 led to the creation of the Liaison Council on September 20, 1977. On the same day that the Liaison Council was created, *Yomiuri Shimbun* cited an anonymous government source who was concerned with the possibility of Japan's admitting refugees as immigrants. In addition to noting concerns about overpopulation and population density, *Yomiuri's* government source argued that

¹¹⁹ *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1980. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], p. 50. The Liaison and Coordination council makes similar statements in its annual reports between 1987 and 1994 as well.

¹²⁰ *Asahi Shimbun*, September 12, 1977, "Konshjū Zenhan nimo Tsume no Kakuryōkyō [Cabinet Talks to Conclude as Early as the End of This Week]," evening edition, p. 1.

admission of Indochinese refugees now might lead to an explosion of other Asian refugees later:

If we allow refugees to settle in Japan, then there is a fear that there will be continuous flows of refugees from other Asian countries as well, and for the present all we can do is improve our refugee policy that had been insufficient until now.¹²¹

A Ministry of Justice bureaucrat made a similar argument to a *Yomiuri* columnist:

“Regarding the admission of Vietnamese refugees, there is a fear that this admission would spur a flood of refugees from other countries”¹²²

The Liaison Council did not explicitly voice the third concern, that refugee admissions are inconsistent with Japanese traditions, in its annual publications. However, the 1987 publication contains the following argument about why some countries have admitted large numbers of refugees:

Countries that have admitted large numbers of refugees, such as America, Canada, Australia, France, either originated with a tradition as immigration countries or had a background of involvement with the Indochinese countries; also, countries such as Switzerland and Sweden, had a tradition of caring for disabled people based in Western European humanism.¹²³

While Japan is not mentioned in this list, earlier in the same document the Liaison Council argued that while Japan cannot accept large number of refugees like the United States, Japan has helped out in other ways, including monetary support.¹²⁴ In short, because Japan has neither a tradition of Western European humanism nor a tradition as an immigration country, the Liaison Council argues that Japan could not accept refugees.

¹²¹ *Yomiuri Shimbun*, September 18, 1977, “Teijū Mitomezu Shisetsu Kakujū; Betonamu Nanmin de Seifu [The Expansion of Facilities without Allowing Settlement: Vietnamese Refugees and the Government],” p. 1.

¹²² Matsumoto Hitoshi, *Yomiuri Shimbun*, September 28, 1977, Opinion Piece, “Nanmin no Kyūsai; Jirenma Nihon; Akumu ‘Sattou de Konran’ ‘Hitojichi’ dakede Katadukenai [Refugee Aid; Japan in a Dilemma; A Bad Dream of Chaos Caused by a Flood; It can’t only be Understood as Humanitarian] p. 7.

¹²³ *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1987. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], pp 19-20.

¹²⁴ *Indoshina Nanmin no Genjō to Kokunai Engo [The Present Condition of Indochinese Refugees and Domestic Relief]*, 1987. Tokyo: Naikaku Kanbō, Indoshina Nanmin Taisaku Renraku Chōsei Kaigi Jimukyoku [Cabinet Secretariat, Liaison and Coordination Council for Indochinese Refugees and Displaced Persons], p 2.

The Liaison Council did not explicitly say what kinds of traditions that Japan *does* have that are not compatible with refugee admissions, but an anonymous member of Japan's delegation to a UN conference on Indochinese Refugees was more clear about this point. He or she said, "on top of the fact that we have little land and high population density, other cultures cannot get used to living in our monoethnic society."¹²⁵ The Japanese delegation member suggests that Japan's tradition of monoethnicity is fundamentally incompatible with large-scale refugee admissions.

The three concerns of cultural preservationists—that Japan is too small and overpopulated, that Japan is at risk of facing large-scale refugee flows from other Asian countries, and that refugee admissions are a challenge to Japanese traditions—all suggest an ambivalence about policy changes which would threaten to undermine Japan's ethnic homogeneity. Moreover, the very nature of elite debates about refugee admissions in Japan did nothing to discourage this ambivalence; both westernizers and cultural preservationists took for granted the claim that increased refugee admissions would undermine Japan's ethnic homogeneity, and this was a cost that cultural preservationists were not willing to bear.

By the end of the Indochinese refugee crisis, Japan had made a number of major changes in its refugee policy. Japan ratified the UN Refugee Convention in 1981, a policy that had indirect consequences for Japan's treatment of foreign residents, as discussed in Chapter 2. Japan also greatly increased its funding to international refugee relief efforts, becoming one of the most generous countries in the world in this regard. However, Japan began allowing Indochinese refugees to settle in Japan quite late relative to other advanced industrialized countries, Japan let a relatively small number of Indochinese refugees settle in Japan, and Japan never moved to establish general refugee quotas. I have argued the primary cause of these three policy decisions has been the inability of Japanese elites to frame large-scale refugee admissions in a manner that appealed to cultural preservationists.

¹²⁵ Special Correspondent Watanabe, *Nihon Keizai Shimbun*, July 23, 1979, "Tainichi Fūatsu Takamaru 'Nanmin Ukeire ni Shōkyokuteki' [Pressure Toward Japan is Building; 'Passivity on Refugee Admissions']" p. 4.

Chapter 5: Conclusion

In this concluding chapter I will do three things. First, I will return to the theories that were considering in Chapter 1, briefly reexamining them in light of the empirical data presented in the rest of the dissertation. Second, I will consider the implications of my argument for international relations and particularly constructivist scholarship in international relations. Third, I will discuss the generalizability of the argument of this dissertation, considering how examining domestic debates about national identity might clarify other aspects of international relations.

I. International Norms in Theory and Practice

A. Hegemonic Stability and Reactive States

Hegemonic Stability Theory suggests that states comply with international norms because of pressure from the most powerful states in the international system. This dissertation suggests that, contrary to the predictions of Hegemonic Stability Theory, American pressure is neither a necessary nor a sufficient condition for Japanese compliance with international norms. American pressure is not a necessary condition for compliance because, as Chapter 2 demonstrates, Japan changed its treatment of foreign residents to comply with international norms in the complete absence of American pressure. Chapters 3 and 4 demonstrate that American pressure is not a sufficient condition for compliance. Chapter 3 Japan suggests that began its scientific whaling program in spite of a credible threat of American sanctions, and Chapter 4 suggests that Japan failed to comply with international norms regarding refugee admissions in spite of American requests for Japan to admit more refugees.

However, none of the cases that I examine in this dissertation are easy cases for Hegemonic Stability Theory; in none of the cases did America threaten substantial trade sanctions¹²⁶ or military action. Thus, it is plausible to speculate that, in the face of a credible threat that America would apply an economic embargo or a military attack, elite

¹²⁶ The sanctions that America applied to Japan after Japan began scientific whaling had an extremely minor economic impact; see Chapter 3, Footnote 13 for further explanation.

debates about the nature of national identity become less salient, and elites tend to agree to comply with international norms even if they believe compliance to be contrary to their understanding of national identity. This situation, however, is not very common.

America does not often threaten economic embargos or military action (certainly not against allies); as far as I can tell, neither sort of threat has been made against Japan in the postwar period. Thus, even if my argument about contested national identity only speaks to cases where there is an absence of a credible threat of an economic embargo or a military assault from a global hegemon, my argument still has the potential to explain a large amount of international politics.

B. Liberal Institutionalism

Liberal institutionalism suggests that states comply with international norms when those norms have the support of international institutions with strong monitoring and enforcement capacities. Liberal institutionalism is more useful than Hegemonic Stability Theory in explaining Japan's compliance with international norms for two reasons. First, in none of my three cases did Japan violate legally binding dictates of international institutions. While the IWC asked Japan to stop scientific whaling, and officials from the UNHCR asked Japan to admit more Indochinese refugees, these requests were not binding under international law, and thus Japan's failure to comply with these requests is not particularly puzzling from the standpoint of liberal institutionalism. Second, while international institutions asked Japan to change its behavior in all three cases, only in the case of high compliance—Japan's treatment of foreign residents—did an international treaty clearly require Japan to change its policy.

Nevertheless, liberal institutionalism has two substantial limitations in explaining Japan's compliance with international norms. First, the IWC, the UNHCR, and the UN Human Rights Committee all have fairly weak monitoring and enforcement mechanisms and thus, liberal institutionalism predicts that Japan should not comply with the norms than these institutions support. For this reason, liberal institutionalism has trouble explaining both Japan's decision to comply with *any* of the related international norms as

well as the variation in Japan's compliance with international norms. Second, liberal institutionalism says little about why states join international institutions when they do. Thus, Japan's decisions to ratify the UN Refugee Convention and the ICCPR are difficult to explain with liberal institutionalism.

While my cases do not vary as liberal institutionalism predicts they should, Japan's reluctance to violate the formal rules of international institutions, even those institutions with no monitoring and enforcement mechanisms, serves to underscore the importance of international law in Japanese domestic political discourse. Japanese elite debates about national identity do not occur in a vacuum; they occur in a particular cultural context where the idea that Japan should follow international law is unquestioned. This dissertation suggests that perhaps liberal institutionalism's focus on the monitoring and enforcement mechanisms of international institutions is overly constraining. While strong monitoring and enforcement mechanisms are sufficient to explain compliance with international law, they are not necessary; in countries where international law is taken seriously in domestic politics, states might comply with international law in the absence of monitoring and enforcement mechanisms.

C. Constructivism-Persuasion

Constructivism-persuasion suggests that dialogue with international society draws states into compliance with international norms. Dialogue is most likely to draw a state into compliance when the pro-compliance position has the support of a treaty that the state has ratified or an epistemic community with substantial legitimacy. The cases that I consider in this dissertation do not lend much support to constructivism-persuasion; in the cases where Japan was most active in dialogue with international society—participating in annual IWC meetings and regular UN-sponsored meetings on the topic of the Indochinese boat people—Japan's degree of compliance was moderate or low. Conversely, Japan complied with international norms regarding the treatment of foreign residents in spite of limited dialogue with international society.

The premise of constructivism-persuasion—that dialogue can shape identities and interests, and therefore policy outcomes—is intuitively plausible; people come to understand who they are and what they want largely through interacting with other people. However, constructivism-persuasion’s focus on dialogue between states and international society is misleading, because the overwhelming majority of politically relevant dialogue in the world takes place at the domestic level. In this dissertation I aim to pull insights from constructivism-persuasion into domestic politics, where they have the potential to be extremely useful. This idea is developed in greater depth below.

D. Constructivism-Internalization

Constructivism-internalization suggests that states comply with international norms when elements of the domestic state and/or civil society form alliances with international civil society and use those norms to demand change. This theory has been fruitfully used to explain the variation in Japan’s compliance with international norms regarding women and children (Chan-Tiberghien 2004), but it is less helpful in explaining the variation that this dissertation considers. There was variation in Japan’s compliance with international norms in spite of the lack of variation in Japanese civil society’s relationship with international civil society and Japanese courts’ invocations of international law. Constructivism-internalization’s claim that the presence of connections between domestic and international civil society and/or domestic court willingness to invoke international law makes compliance with international norms more likely is a plausible one. However, this dissertation suggests that compliance is possible even in the absence of such connections.

II. Billiard Balls and Black Boxes

International relations scholarship has changed dramatically in the last 30 years. While in the 1980s neo-realists and neo-liberals agreed to treat states as unitary actors, in the 1990s important scholars from both camps relaxed that assumption. However, there was another important change in the discipline in the 1990s: the emergence of

constructivism, a challenge to the rationalist ontology of neo-liberalism and neo-realism. Most constructivists continue to treat states as unitary actors; in his influential *Social Theory of International Politics*, Alexander Wendt assumes that states “really are actors with more or less human qualities” (1999: 10). While many constructivists have critiqued this assumption on a theoretical level, constructivists have regularly done empirical work that makes this assumption. This assumption has influenced both constructivist empirical work that focuses on how interaction with the international system shapes states’ interests (Finnemore 1996), and constructivist empirical work that focuses on how the cultural attributes of states stop states from responding rationally to the international system (Berger 1996; Duffield 1999; Katzenstein 1996).

This dissertation is an empirical challenge to Wendt’s assumption that states should be treated as individuals with singular interests and identities. Instead, I argue that, when there are domestic elite debates about the nature of national identity,¹²⁷ those debates play an important role in shaping states’ responses to the international system. One cannot explain Japan’s compliance with international norms with reference to either Japan’s (singular) culture or the way that interaction with the international system has shaped Japan’s interests. Instead, this dissertation suggests that domestic elite debates about the nature of Japan’s national identity have shaped Japan’s compliance with international norms.

As a country that is frequently treated as an ideationally homogeneous “Japan Incorporated,” Japan is a hard case for my argument that domestic ideational debates shape states’ responses to the international system. The fact that such debates matter in Japan suggests that constructivist scholarship would benefit if scholars opened the black box of the state in terms of ideas, just as neo-realists and neo-liberals have opened the black box of the state in terms of interests.

¹²⁷ The frequency of this condition is an empirical question that, as far as I can tell, has yet to be asked, but there is no obvious reason to assume that this is not a frequent phenomenon in contemporary international politics.

III. Generalizability: Consensuses and Beyond

The theoretical argument of this dissertation has the potential to open up new approaches to one of the oldest questions in international relations: why do states comply with international obligations, including international laws, regimes, and norms, in the absence of a credible enforcement mechanism? In states where elites are divided on the issue of whether the state should westernize or preserve its culture, my argument suggests that compliance is most likely when it is framed in a way that appeals to elites with both views of national identity. This suggests, for example, that non-western states might be most likely to ratify human rights treaties when westernizers believe that ratification would make their state seem more like a typical western state, while cultural preservationists believe that ratification might actually protect that state's traditional culture—perhaps because they believe that ratification would pacify vocal domestic groups and thus make other, more radical changes less likely.

Even in states where the westernizer/cultural preservationist cleavage does not dominate elite debates about national identity, my argument still has the potential to explain compliance with international norms. For example, future scholarship might consider countries where the salient elite debate about national identity is between those who believe that primary role of the state should be to protect its national security and those who believe that the primary role of the state should be to spread its values and institutions abroad. It seems plausible to argue that America has become increasingly reluctant to comply with international prohibitions against torture because the former group has come to believe that compliance is inconsistent with national security.

This dissertation suggests a simple argument about the relationship between elite debates and compliance with international norms: compliance is more likely when there is an elite consensus that compliance is consistent with national identity. This argument has been useful in explaining Japan's compliance with international norms. However, the simplifying assumptions that it makes—that elite debates end in either consensus or continued stalemate—should not be read as a suggestion that this is the only way that elite debates about national identity might impact states' relationship with the

international system. I will conclude this dissertation by suggesting three other possible ways that elite debates might be resolved, and the implications of each for international politics: persuasion, winning, and the emergence of new groups.

It is possible to imagine that elites with one conception of national identity might become persuaded to adopt another conception of national identity. There has been much IR scholarship about the importance of persuasion at the international level, where scholars using the persuasion variant of constructivism have examined the circumstances where interaction with international society persuades state leaders to change their ideas about appropriate behaviors for states. However, this sort of persuasion seems more likely at the domestic level, since interaction is more frequent, and depending on the conceptions of national identity involved, persuasion would have clear implications for compliance with international norms. In addition to persuasion, it is also possible that elites with one conception of national identity might win the struggle for control over the institutions of state, and thus shape the interactions of their state with the international system.

Finally, it is possible that groups of elites might emerge with new conceptions of national identity, and thus pull states' interactions with the international system in new directions. This last possibility, and this dissertation more generally, suggests the need to continue to build bridges between area scholars, who are able to paint a rich picture of conceptions of national identity held by domestic elites, and IR scholars, who are able to synthesize these pictures and evaluate their implications for international politics more broadly.

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