Suppressing works of contemporary authors using the Code's publication requirements is neither easy nor advisable

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Source: The Bulletin of Zoological Nomenclature, 78(1) : 61-67

Published By: International Commission on Zoological Nomenclature

URL: https://doi.org/10.21805/bzn.v78.a021

NOMENCLATURAL NOTE

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http://zoobank.org/urn:lsid:zoobank.org:pub:7E0DC02D-E613-4268-9204-573D35FECBF6
http://dx.doi.org/10.21805/bzn.v78.a021

Abstract. In times of increasing easiness to produce publications, attempts have been made to use the Code's requirements for publication to declare controversial works unavailable. I advise against such strategy, because in this day and age, these requirements are very easily met by anybody and their violation very difficult to prove. This is illustrated by one example each from herpetology, ichthyology, and entomology. Contemporary works with controversial taxonomy and available nomenclatural acts are better taken care of by the scientific community and resolved in the long term by prevailing usage rather than trying to declare them unavailable or seeking suppression of such works by the ICZN.

Key words. Nomenclature; taxonomy; controversial authors; Hoser; private publications; Procrustomachia; suppression.

In recent years, a couple of Cases have been published containing or evoking, as Comments, attempts to declare works of controversial authors to be unavailable on grounds of alleged non-compliance with Code requirements for published works (ICZN, 2012): In Comments to Hoser's (2013) Case 3601, Kaiser (2014a), Schleip (2014), Wüster et al. (2014), and Zug (2014) used criteria for publication to put into question the availability of the *Australasian Journal of Herpetology* for nomenclatural purposes. Bílý et al. (2018) requested the Commission to use its plenary power to declare unavailable the, at the time, published volumes 1 to 3 of the journal *Procrustomachia* because, in their opinion, the journal did not fulfill the requirement of an initial print run of "numerous identical and durable copies" (Article 8.1.3.1 of the Code).

After discussing these cases below, I will advise against the strategy using availability criteria of the Code to declare whole journals or journal issues unavailable because, in this day and age, these requirements are very easily met and their violation very difficult to prove.

Example 1: *Procrustomachia*

The latest Case requesting suppression of a whole journal is Case 3769 (Bílý et al., 2018), dealing with the serial *Procrustomachia*, privately published, and hitherto solely authored by the established Polish jewel beetle specialist Roman Hołyński. Beginning in 2016, Hołyński described well over one hundred taxa in his journal. The quality of the descriptions has never been criticized—not in the Case (Bílý et al., 2018), its Comments (Jendek, 2019; Levey, 2019), or related publications (Bílý & Volkovitsh, 2017). The authors of the Case are concerned, as they stated in a preceding paper (Bílý & Volkovitsh, 2017), that this privately published journal "exists only in the private PC of the author" and "has neither a printed version nor International Standard Serial Number (ISSN)". In a recent Comment (Krell, 2020) I explained that it indeed has an ISSN, that copies of the journal are held in a few libraries, and that the journal even has an electronic archive. The authors of the Case assumed "that the initial print run is too small to be accepted as a published work", yet they submitted a Case to the Commission, thus implying that the work may actually be considered available. They were also erroneously stating that information is missing where printed issues of the journal can be obtained, and they were uneasy with the mode of publication, namely privately and without peer-review. The publication mode (private, institutional, commercial, etc.) and an editorial process including a peer-review are not regulated by the Code. Limited distribution in libraries, or limited records in online library catalogs is hardly evidence against the existence of an initial print run of "numerous" identical copies, which can be arguably defined as more than two.

Example 2: *Australasian Journal of Herpetology*

Raymond Hoser, the Snakeman® from Australia, is probably the most controversial figure in current herpetology. His extremely high productivity combined with often less-detailed presentation, his publication strategy relying exclusively on his self-edited and self-published journal, and his inflammatory and personally confrontational rhetoric, which extensively finds its way into his scientific publications, has alienated many in the herpetological community and beyond and created widespread hostility towards Hoser and his scientific output. His self-published journal *Australasian Journal of Herpetology*, currently at issue 51, has been claimed to be published in the sense of the Code (Wallach et al., 2009), which was rebutted by Hoser (2012) presenting the tax invoice for the printing of 50 copies. Still, detailed examinations of hardcopies by Kaiser (2014a), Schleip (2014) and Wüster et al. (2014) let those authors doubt the existence of an initial print run. However, while their evidence could not confirm such a print run, neither could it prove that a print run never existed. Hoser (2015) promptly rebutted the claims of his opponents and described the production of his journal.

Here, using publication criteria to declare a journal unavailable also failed. Thomson (2014) acknowledged that "demonstrating that a work is unpublished with respect to the Code is very difficult" and suggested a rejection of Hoser's works by plenary power, as later formalized by Rhodin et al. (2015). Because of the impact through the sheer number of Hoser's new names and the rejection by a large part of the herpetological community to use Hoser's names, Rhodin et al.'s (2015) application has more merit than the *Procrustomachia* Case, but in both instances, using publication criteria to

declare works unpublished for nomenclatural purposes failed. If these works were clearly unavailable, Cases were unnecessary in the first place.

A cautionary tale from the last decade

These are not the only instances where publication criteria of the Code were used in an attempt to declare published works unavailable or unpublished. For example, Huber (2007) declared a new replacement name for his homonymous fish genus name *Adamas* to be unavailable because he assumed the journal, *Munis Entomology & Zoology*, to be electronic-only, which would have meant that the work by Özdikmen et al. (2006) containing the new replacement name would be considered unpublished. Soon after, both Sonnenberg & van der Zee (2008) and Özdikmen (2008) clarified that the journal has a print version from which the work and thereby the name is available.

In times when most of the scientific literature is distributed and consumed electronically, it becomes increasingly difficult to determine whether a printed version of a work was produced. There are certainly more examples of similar cases.

So what to do then?

With the dominance and ubiquity of digital printing including desktop printing, the production of an initial print run that satisfies Art. 8.1 is cheap, easy and quick. We should assume that such a print run has been produced by journals claiming to be print journals, because for a private person or publisher of a non-mainstream taxonomic publication it would be unreasonable to risk unavailability of such work for so little gain as saving the negligible printing costs.

While publishing private one-person journals is not an advisable strategy, because it easily raises doubts about quality and quality control, such journals are to be considered published for the purposes of zoological nomenclature if they fulfil the requirements for electronic publication (ICZN, 2012; Krell, 2013; Krell & Pape, 2015) or if published with an initial print run of numerous identical copies. This is true even if "numerous" copies are only a few, but more than two. To be on the safe side, private publishers might want to consider fulfilling the requirements for electronic publications as well because of the growing dominance of electronic documents in the day-to-day scientific work.

Using Code-requirements for publication to deem published works unpublished for the purposes of zoological nomenclature is mostly futile, as a claim of an initial print run can hardly be disproven. If it is considered in the interest of nomenclatural stability that a journal or a work is deemed unavailable or unpublished, it is possible to present a Case to the Commission stating the destabilizing effects on nomenclature of said work. However, the suppression of whole works or whole journals is a serious act and deeply intrusive into the intellectual freedom of scientific work. Commissioners will consider such a step very carefully and cautiously. The Commission had previously suggested, in the decision on Case 2531 asking for suppression of three herpetological works by Richard Wells and Ross Wellington, that "any submission to the Commission being confined to names rather than to works" (ICZN, 1991).

In most cases, when sub-standard or controversial taxonomy is involved, the scientific community will deal with it and either accept or reject the proposed taxonomy

(ICZN, 1991; Cogger et al., 2017). Whereas the rejection of taxonomies is common and unproblematic in the scientific discourse, the rejection of available and valid names, not to mention a validly published work, is a rare occurrence and in conflict with the Code. However, extraordinary circumstances might justify such extraordinary measures.

Hoser's names as a test case for a potential solution

Kaiser et al.'s (2013) paper is an organized and well-supported proposal to mobilize the herpetological community to disregard Hoser's works including the new names they contain. This might be a better way forward than a suppression of Hoser's works by the ICZN, because Case 3601 (Hoser, 2013) has more to do with taxonomic practices, scientific quality, ethical considerations, and inappropriate rhetoric than with nomenclatural issues. However, it leads to awkward and uncomfortable situations when new species recently named and described by Hoser are re-described as "new species" by other authors, referring to and explicitly refusing Hoser's names. Nankivell et al. (2020) wrote "Hoser (2016) named *Emydocephalus* populations from coastal Western Australia and the Timor Sea as a new species; however we follow the recommendations of Kaiser *et al.* (2013) and consider names published outside of the peer-reviewed literature post 2000 to be unavailable." The year before, Kraus (2019) explained in detail why Hoser's names of geckoes (Hoser 2018) are to be disregarded for scientific reasons (i.e., lack of, misrepresented, or second-hand evidence) and concluded: "Although I recognize the temporal precedence of Hoser's names, I choose to ignore them following the reasons given in Kaiser et al. (2013) and Kaiser (2014[b])—I regard Hoser's names as unavailable for nomenclatural purposes because their erection eschewed even minimal scientific standards of evidence. [...] Without responsible action by the unresponsive ICZN, legitimate scientists must knowingly violate the principle of priority so as to attain the greater good of ensuring scientific rigor and avoiding the chaos that can follow from vandalizing taxonomy and conservation planning with a plethora of meaningless names."

For somebody outside the herpetological realm and not directly affected by Hoser's practices and productivity, it would seem more appropriate to either comprehensively re-describe the already known but sparsely described species under Hoser's name, as, e.g., Schleip (2008) had done, or to painstakingly analyse and rectify Hoser's work, as, e.g., Denzer et al. (2016) did, or at least not to insist that one has discovered a new species. But it appears that Hoser's confrontational tone and attitude employed in his papers, his practice to publish on specimens he had not directly studied, extensively harvesting the recent literature for para- and polyphylies and diagnostic characters of yet unnamed taxa, combined with the quality of his descriptions, have taken a toll on his acceptance in the scientific community. The Code-compliance of Hoser's names is unquestionable, but currently an increasing number of herpetologists take a stand and disregard Hoser's names. The ICZN has just voted on the *Spracklandus* Case and Hoser's journal *Australasian Journal of Herpetology* (ICZN, 2021) and decided against a formal confirmation of availability of name and journal, but also against the suppression of the journal. However, no matter how the ICZN had ruled, Hoser's productivity will likely outrun any decisions the Commission can make. Time will tell what the community decides in the long term, and if prevailing usage will take care of the situation.

Acknowledgments

For valuable suggestions and corrections, I am grateful to Thomas Pape (*Natural History Museum of Denmark, Copenhagen*) and Neal Evenhuis (*Bernice Pauahi Bishop Museum, Honolulu*).

Disclaimer

The author is Commissioner and Councillor of the ICZN. This paper expresses the considerations and opinions of the author alone and neither of his employer, the Denver Museum of Nature & Science, nor of the ICZN.

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