

Acknowledgements

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(119–122) Proposals to amend Articles 51 and 56 and Division III, to allow the rejection of culturally offensive and inappropriate names

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Taxonomy, like any science, is embedded in culture. This can be both productive (science is an important expression of culture) and counterproductive (when science promotes or perpetuates problematic cultural norms). It is a fact of life that cultures change; at times, the sciences that are embedded within cultures need to change in concert.

Three areas where important cultural changes are occurring at present are: (1) a rapidly growing awareness of the importance of dealing with present and past institutional racial injustice, including in the botanical sciences (see, e.g., Williams & al. in *Taxon* 70: 219–222, 2021); (2) a growing recognition that some culturally prominent historical figures acted in ways that are now regarded as deeply inappropriate (usually by being egregiously damaging to members of other races and cultures); and (3) a growing awareness that some racially derogatory terms that were common and acceptable in the past are now clearly unacceptable.

While cultural contexts in the past allowed (or, more usually, actively supported) these actions, behaviours or terms, there is a widespread modern consensus that they are now inappropriate or worse. Ongoing public debates about the appropriateness or otherwise of honouring some historical figures through public statues, named buildings and other honorifics, and changes in our understanding of the appropriateness of some racially derogatory words, attest to these developments.

A strength of taxonomy and taxonomic nomenclature is that they change over time. Another strength is that they are deeply rooted in history, with stability and priority as important principles. These two aspects are clearly in tension, and an important challenge for our discipline has been managing this tension and navigating a middle path between instability on the one hand and stasis on the other. Good examples are the gradual acceptance of mechanisms for

overriding, in some circumstances, the principle of priority through conservation, and the changes that culminated in the *Melbourne Code* (McNeill & al. in *Regnum Veg.* 154, 2012) to allow electronic publication and no longer mandate Latin descriptions or diagnoses.

There is currently no provision under the *Code* that allows names that are insulting, offensive or otherwise deeply culturally inappropriate to be rejected in favour of more suitable names. Criticism has arisen around the continued use of such names (e.g. Gillman & Wright in *Commun. Biol.* 3: 609, 2020; Knapp & al. in *Taxon* 69: 1409–1410, 2020). One example is the continued use of the epithet *caffra*, which as Knapp & al. (l.c.) point out is used in c. 150 names (many of them African) and is a latinization of a word that is so deeply offensive that its use is illegal in South Africa.

Another example is epithets honouring George Hibbert (e.g. *Hibbertia* Andrews, *Erica hibbertia* Andrews), a prominent English slave-trader and slave-owner who very actively and visibly led British Parliamentary resistance to abolition. That he was a wealthy patron of botany (his wealth derived largely from slavery) cannot overshadow his attitudes, which even at the time were widely considered offensive. We believe that continuing to honour Hibbert is deeply insensitive to many people, not least those with backgrounds directly affected by slavery and the activities of Hibbert and people like him.

The proposals presented here provide a mechanism to deal with egregious examples such as these. We propose (1) that Art. 51.1 of the *Shenzhen Code* (Turland & al. in *Regnum Veg.* 159, 2018) be amended to give more clarity to its intent, (2) that a new Art. 51.2 be inserted to provide a mechanism to reject names that are culturally offensive, (3) that Art. 56.1 be amended to allow proposals to reject names on the basis of Art. 51.2, (4) that a new Permanent Nomenclature Committee be constituted under Division III to govern the application of our proposed Art. 51.2, and (5) that consequent editorial

amendments be made to Art. 56.2, 56.3 and Div. III Prov. 7.10 to accommodate the new Committee.

(119) Amend Art. 51.1 as follows (new text in bold, deleted text in strikethrough):

“51.1. A legitimate name must not be rejected merely because it, or its epithet, is ~~inappropriate or disagreeable~~ **not fitting for the taxon**, or because another is ~~preferable~~ **better suited** or better known (but see Art. 51.2, 56.1, and F.7.1), or because it has lost its original meaning.”

The Examples cited for Art 51.1 clearly indicate that its intent is to prevent rejection of names that are ill-suited for a taxon, such as ones chosen based on a factual error. None of the Examples covers the issue of culturally offensive names. Nevertheless, Art. 51.1, taken literally outside the context of its Examples, would be likely to effectively preclude any proposal to reject names on the basis that they are offensive, no matter how egregious. Our proposal thus clarifies the original intent of Art. 51.1.

(120) Add a new Article 51.2:

“51.2. A legitimate name may be rejected under Art. 56.1 because it, or its epithet, is culturally offensive or inappropriate, because it (a) is derogatory or insulting to a person or group of people, (b) is named in honour of a person that the taxonomic community agrees should not be honoured, or (c) otherwise causes deep offense.”

(121) Amend Art. 56.1 as follows (new text in bold):

“56.1. Any name that would cause a disadvantageous nomenclatural change (Art. 14.1) **or that is regarded as culturally offensive or inappropriate (Art. 51.2)** may be proposed for rejection. A name thus rejected, or its basionym if it has one, is placed on a list of nomina utique rejicienda (suppressed names, App. V). Along with each listed name, all names for which it is the basionym are similarly rejected, and none is to be used (see Rec. 50E.2).”

Note that the new Art. 51.2 and the amendment to Art. 56.1, as proposed, do no more than establish the grounds and mechanism for the rejection of culturally offensive or inappropriate names. We propose that the actual rejection of such names be handled by a new Permanent Nomenclature Committee established under Div. III.

(122) Amend Div. III Prov. 7.1 as follows (new text in bold, deleted text in strikethrough):

“7.1. There are ~~nine~~ **ten** Permanent Nomenclature Committees, including ~~five~~ **six** specialist committees (clauses (e)–~~(j)~~):

[...]

(j) Nomenclature Committee on Culturally Offensive or Inappropriate Names.”

Consequent editorial amendments:

In Art. 56.2 change “specialist committees for the various taxonomic groups” to “appropriate specialist committee”.

In Art. 56.3 change “specialist committee for the taxonomic group concerned” to “appropriate specialist committee”.

In Div. III Prov. 7.3 and 7.10 change “five specialist committees” to “six specialist committees”.

We propose that a new Permanent Nomenclature Committee be established for the purpose of governing the rejection of culturally offensive or inappropriate names, rather than tasking such decisions to the existing specialist committees (the Nomenclature Committee for Vascular Plants etc.), for three reasons. Firstly, these committees

already face substantial workloads dealing with proposals to conserve, protect or reject names, proposals to suppress works, and requests for binding decisions based on the current *Code*, and it would be inadvisable to increase these workloads further. Secondly, the skills required by members of the existing specialist committees are unlikely to overlap substantially with the skills required by members of the proposed new Committee. Thirdly, issues likely to arise, and the processes of forming a decision, with respect to culturally offensive or inappropriate names are likely to be similar whether the name under question is the name of a vascular plant, bryophyte, fungus, alga etc., and hence a single Committee to deal with all such matters is appropriate.

As with the other Permanent Nomenclature Committees, the proposed Nomenclature Committee on Culturally Offensive or Inappropriate Names would operate under the membership provisions of Div. III Prov. 7. Members would be elected by an International Botanical Congress, and the Committee would have the power to elect officers as desired, fill vacancies, and establish temporary subcommittees in consultation with the General Committee (Prov. 7.2). The Secretary of the Committee would be an ex-officio member of the General Committee (Prov. 7.3), while the Rapporteur-général, Vice-rapporteur, and Secretary of the General Committee would be non-voting ex-officio members of the Committee (Prov. 7.7). It would be expected, though we believe does not need to be mandated, that at least one member of the Committee would have expertise in vascular plants, bryophytes, fungi, algae and fossils (Prov. 7.4), and Prov. 7 Rec. 1 would apply, i.e. membership should, so far as is practicable, be geographically and gender balanced. Thus, in all respects other than expected expertise, the proposed Committee would operate in a manner familiar to the botanical and nomenclatural community.

The proposed Nomenclature Committee on Culturally Offensive or Inappropriate Names will give effect to, and regulate, our proposed Art. 51.2 in the same manner that the current Nomenclature Committees, among other duties, give effect to and regulate the provisions under the *Code* for the rejection of names under Art. 56.

A note on the “slippery slope” argument

We expect that a common response to this proposal will be the invocation of the “slippery slope”: that is, where will this all end? The “slippery slope” is often used in the form of a *reductio ad absurdum*, to argue that this proposal if accepted will quickly lead to minor infractions of cultural norms being used to “suppress” many names, and that the system we propose will be abused.

We counter that our proposal is self-limited by creating the new Permanent Nomenclature Committee discussed above and maintaining all other provisions of Div. III. Proposals to reject names that are culturally offensive or inappropriate will need to be published in *Taxon*, as is currently the case for similar proposals under other Articles of the *Code*, with full reasoning, argument, context and justification. Proposals will be received by the General Committee and referred to the proposed Nomenclature Committee on Culturally Offensive or Inappropriate Names (Prov. 7.9). That Committee will make a recommendation to the General Committee, based on a qualified majority (60%) of members (Prov. 7.14), upon which the General Committee may approve or overturn the recommendation (Prov. 7.15), again with a qualified majority. The General Committee will in turn make its own recommendation, which will be subject to the decision of a later International Botanical Congress (Prov. 7.15), which may reject it (Prov. 5.1(e, f)). We believe that these provisions, and the expertise and experience of members of all the relevant

Committees, will quickly establish a precedent that only clearly egregious examples of culturally offensive or inappropriate names will be rejected, with a high degree of consensus, and misuse of the system for trivial rejections will be very limited.

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(123–125) Proposals on the retroactivity of conservation

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The Shenzhen Congress accepted an addition to the *Code*, detailing when conservation takes effect. As now phrased, Art. 14.15 seems to suggest that conservation does not apply retroactively.

There appears to be no doubt that conserved spelling needs to apply retroactively. An example is *Cajanus cajan* (L.) Huth (1893). The generic name was published with the original spelling ‘*Cajan*’, and ‘*Cajan cajan*’ cannot be validly published (Art. 23.4). Because *Cajanus* Adans. (1763) is conserved with that spelling, there is no problem with the species name as long as conserved spelling applies retroactively; otherwise the combination could not be published before 1910, when conservation took effect.

Conserved gender is governed by the same provision as conserved spelling and is best treated similarly.

Whether legitimacy of a conserved name should be retroactive appears more controversial. Apparently some feel that retroactive legitimacy would cause problems with superfluity under Art. 52. Adding a suitable provision to Art. 52 should prevent any adverse effect. A clear example of the desirability of retroactive legitimacy is *Rosa virginiana* Mill. (1768), a later homonym, duly conserved, taking effect in 2011. Limiting retroactivity of legitimacy would mean that between 1768 and 2011 this would remain an illegitimate name that may not be used (Art. 6.6). In other words, all the taxonomic (and other) literature between 1768 and 2011 that uses this name would be wrong. Preamble 5 starts “The object of the rules is to put the nomenclature of the past into order [...]” Limiting retroactivity of conserved legitimacy is not putting the nomenclature of the past into order, but giving a name of the past a kick and putting up a sign “out of order”. This would be a fundamental failure in the basic nomenclatural mission to provide names to be used by taxonomy; names depending on taxonomic position (“a particular circumscription, position, and rank”) but not determined by time (pre- or post-conservation). In addition, an illegitimate *R. virginiana* (pre-2011) could not be “a name that ought to have been adopted” in the sense of Art. 52. Thus, pre-2011 replacement names (such as *Rosa lucida* Ehrh., 1784) could not be illegitimate.

Such a limitation would affect not only conserved names that were illegitimate when published, but also all pre-conservation-date combinations with these names. For example, conservation of the later homonym *Sorghum* Moench (1794) became effective in 1964,

so that between 1794 and 1964 all species names (including *S. bicolor*) would have been combinations with an illegitimate generic name (cf. Art. 55.1) and thus not correct. All literature using these would be wrong; a separation between taxonomic reality and nomenclatural reality. In 1964, many of these would become correct names, all at once; an inexplicable instability. Furthermore, because prior to 1964 no combination in *Sorghum* could be correct (to be “adopted”), no pre-1964 combination under *Sorghum* could be illegitimate by the inclusion of the type of an earlier name.

The above accords with the analysis made by Wiersema & al. (in *Taxon* 65: 645. 2016) for binding decisions. In their case of *Eriastrum* (l.c.: 644), there is no problem if legitimacy applies retroactively. Any potential problems they discuss for basionyms (l.c.: 643–644) disappear if legitimacy is accepted as applying retroactively.

(123) Add a new rule, somewhere in Art. 52:

“52.n. For the purpose of Art. 52.1, in determining if a name ought to have been adopted, or of which the epithet ought to have been adopted, the effects of conservation, protection, or sanctioning, even if otherwise retroactive, are to be disregarded, unless this conservation, protection, or sanctioning took effect (Art. 14.15) prior to the publication of the name being evaluated for superfluity.”

If it is felt that retroactivity of conserved legitimacy may cause problems for Art. 52.1, it should be possible to expressly limit retroactivity of conserved legitimacy, only for the purpose of Art. 52.1, very parsimoniously. Article 52.2 already expressly limits retroactivity of conserved types, for the purpose of Art. 52.1 (as does Art. 48.2, for the purpose of Art. 48.1).

(124) Add a sentence at the end of Art. 14.15:

“14.15. [...] Conservation of spelling and gender (Art. 14.11), once it takes effect, applies retroactively, as does legitimacy of conserved names (Art. 14.1) (but see Art. 52.n).”

If this is accepted, it may be a good idea to add a Note to Art. 6.5 along the lines of “No name can become illegitimate by the later typification or later conservation of another name” or in Art. 14 (somewhere): “Conservation of a name cannot cause another name to become illegitimate.” Also, it would seem that there is no need to expressly limit the