Wildlife Protection Act Anomalies – Part I

The Indian Wildlife (Protection) Act contains numerous errors of archaic language which, although sound silly and unserious, nonetheless lead to loopholes with very serious consequences. One of the most obvious is the definition of the word "animal". For that matter, the Indian Constitution itself contains errors of definition of this word. Legal language being what it is, such simple errors can lead to unfortunate results.

The errors over the definition of the word "animal" can be corrected with information from children's textbooks, to wit: among biological organisms, there are five divisions: animals, plants, fungi, protists, bacteria. These are the only "living organisms". In the animal division, which we call the Animal Kingdom, there are two divisions, vertebrates (mammals, birds, reptiles, amphibians, fish) and invertebrates. All of these are "animals".

The Constitution of India has listed "living organisms" as "plants, animals, birds and fishes", which is not precisely correct. It is not incorrect that they are living organisms but it is incorrect to imply or state that they are the *only* living organisms, or the only ones worth considering! Also, it is redundant to say "animals, birds and fishes" as birds and fishes are themselves animals. It is incorrect to leave out mammals, amphibians, reptiles and invertebrates because they are also animals.

Increasing the confusion, the Wildlife Protection Act has defined "animal" to include amphibians, birds, mammals, and reptiles (including the young and eggs of birds and reptiles). This is an improvement, but fishes and invertebrates have not been included. Although in the 1970's, when the first Act was drafted perhaps it could not be imagined that fish and invertebrates would require legal protection, today they do.

Today, there are cases in the High Court which challenge recent amendments of the Wildlife Protection Act using the fact that the organisms listed in the amendments are not "animals" as defined by the Act (among other reasons).

Also today, the population of the world is far greater and it's tastes are perhaps far more exotic than was anticipated a few decades ago. In the 1970's, who would think that sea cucumbers, a marine invertebrate, would be commercially exploited in tons? Who could think that exploitation of marine life would reach a stage of depleting the ocean's stores? And who could have anticipated that there would be a market for Indian tarantulas at a value of 50 pounds sterling for each spider?

If the correct meaning of "animal" is clarified legally, some of the strength of current cases against recent Schedules would be diminished. Also, a number of invertebrates which were previously listed (452 species of butterflies, 36 species of beetles, crab and 1 dragonfly) would not be subject to challenge.

Until this is corrected, issues regarding protection of the two groups not mentioned in the definition of animal -- fish and invertebrates -- (two animal groups which increasingly require protection) can always be challenged on that basis.

In this regard, our organisations were pushing for listing all species of the Genus *Poecilotheria* and other Theraphosid species. These are large-bodied spiders, or Indian tarantulas which are known to be in great demand for international trade. When we asked why this had not been included in recent Amendments, we were told about the legal connundrum above, which, until settled, makes listing any invertebrate species a mistake and a waste of time.

The action of correcting these documents is appropriate not only because of increasing pressure on fishes and invertebrates, but because a country like India which spends crores of rupees perhaps daily on science and which has produced some of the world's best scientists and delivered some of the most basic science to the world for the first time, should not suffer the embarrassment of archaic and outdated biological terminology.

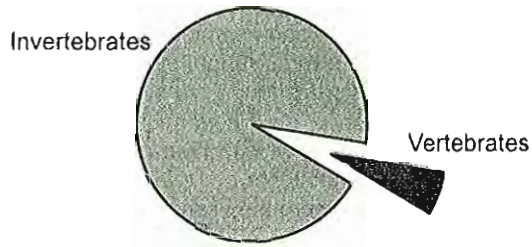
We are informed that over the years, this error has been noted by others and the Ministry warned that it may cause problems, but nothing was done about it. Now, that which was feared has come about as individuals with vested interests exploiting the errors to strengthen their attempts to cripple the new Schedules of the Act.

Even more distressing, a revised Act has been submitted to the Parliament very recently which also has not corrected this error. It seems that the bill was submitted to the Cabinet for placing before the Parliament before this issue surfaced! So we are stuck with a purile definition of "animal" for another few months, or -- most likely -- years !

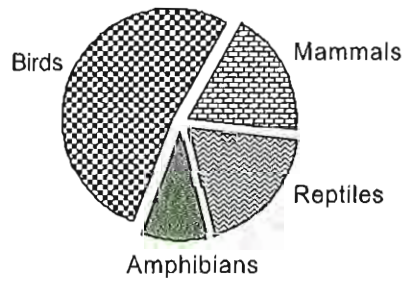
How much longer does the wildlife of India have to wait for officials of the wildlife and biological community to carry out such a basic and simple task !

Sally Walker and Sanjay Molur

The Animal Kingdom according to Science texts



The Animal Kingdom according to the Indian Wildlife (Protection) Act, 1972, 1991



STOP PRESS!

We have just received information that the Wildlife (Protection) Amendment Bill, 2002 redefines "Animal" as including mammals, birds, reptiles, amphibians, fish, other chordates and invertebrates and also includes their young and eggs.