

HOW NOT TO SAVE A SPECIES

Britain's wildlife protection laws could be doing more harm than good, says Trevor Beebee

This article and the subsequent correspondence was first published in the New Scientist, and is reprinted here by kind permission of the Editor

With the green revolution sweeping through British politics, it is to be hoped that the government finds time for a new look into the tangled under-growth of our wildlife protection laws. In 1981, the Wildlife and Countryside Act became the cornerstone of species and habitat protection in Britain, and was meant to see these issues through into the 21st century. However, many conservationists have been dissatisfied with the workings of the act almost from day one. Many of them now feel that, despite the massive amount of debate that the legislation engendered, and the substantial costs (most notably in renotification of Sites of Special Scientific Interest), the law is failing to curtail the destruction of habitats or the decline in species in many situations. What, then, are the major failings of the act, and how might they be remedied?

Fundamental to the current law is a distinction (albeit incomplete) between the protection of species and protection of habitats, covered in parts one and two of the act respectively. It is my view that this initial distinction has led to a serious imbalance in conservation efforts, and is in need of urgent reconsideration. I contend that the protection of species has been grossly overdone, and in many cases has been useless (perhaps even detrimental) to conservation, while the protection of habitats remains weak and is all too often ineffectual.

There are, of course, instances in which special protection must be given to particular species of animals or plants. By and large, however, these boil down to cases where direct or indirect human predation has a major impact on the species' prospects. It is easy to think of examples, almost always of large animals near the top of the food chain (golden eagles, wildcats and so on), or plants so restricted that collection of a few specimens could cause national extinction (such as some of our rarest orchids). There are, however, really rather few organisms in these categories, certainly far fewer than currently given total protection under Schedule 5 of the act. Most creatures given high-level protection are endangered primarily by loss of habitat; these include numerous invertebrates, amphibians, reptiles, some small mammals and so on, and preventing direct human predation makes little or no difference to them.

So why should it matter if the law errs on the overcautious side? Well, some unfortunate consequences can arise. First, there is the question of cost. Protecting species has meant setting up a licensing procedure, currently run by the Nature Conservancy Council, and spending several thousands of pounds a year issuing documents of little consequence for the conservation of most of the species involved. Indeed, in many cases, a rubber-stamping operation has evolved: 85 per cent of licence applications to handle great crested newts have been granted over the past few years, for example, so why bother with the bureaucracy in the first place? Surely these funds could be better spent in practical conservation.

Secondly, there is the question of honesty. At least some species protected under Schedule 5 of the act are not even rare, and were placed on the list for reasons related more to politics than on the basis of scientific evidence. The crested newt is again a good example: although it is widespread all over lowland Britain, it is now an offence for children wielding pond nets to catch this animal deliberately – even just for a quick look, followed by immediate release.

Does this increase public sympathy towards conservation? More importantly, perhaps does it not devalue conservation efforts for more seriously threatened species? How long will it take developers to realise that crested-newt ponds are all over the place, and then attack conservationists for crying wolf? This could have serious consequences when defending sites with seriously endangered species. To take the example of another amphibian, the natterjack toad is seriously endangered in Britain, but has exactly the same level of protection in law

as the great crested newt. It isn't difficult to imagine assaults based on the principle of "but that's what you said about crested newts and they're everywhere".

So why has species protection been so popular? Well, to be cynical, it is relatively easy, and cheap, to create a pointless licensing procedure that effects a tiny proportion of the electorate, especially when this includes the conservationists who made the fuss in the first place. Good publicity, to be sure, to say that species X is now "protected", but all too often meaningless in practice. Most creatures covered in part one of the 1981 act have continued to decline as fast or faster than previously, when, as is most commonly the case, the problems lie with the habitat. There are fewer sand lizards and smooth snakes today than there were a decade ago, though both were given maximum protection in 1981. This is simply because the destruction of their heathland habitat has gone ahead unabated. Of course, animals like crested newts, though still widespread, are also declining, and do need to be protected, but the only way to do this effectively is to change the balance of the law to encourage conservation of habitats. The way forward is to cut out much of the species protection with its associated bureaucracy and general inconsequence for conservation, and put some real teeth into habitat protection. Make SSSIs truly inviolate, not to be overruled by planning permissions, but subject to compulsory (and government-funded) management regimes. Let's also give landowners real financial incentives to keep heritage features in our countryside outside the SSSIs, and put an end to the opposite situation that has prevailed since the Second World War. It will be more expensive than a licensing office, but not excessively so in the context of existing agricultural subsidies (which could, of course, simply be redirected). It is the only real hope for many species "protected" so ineffectively at present. Will the government rise to the occasion? Or is talking green simply the best form of camouflage?

Article by Trevor Beebee, reprinted from the New Scientist, 26 November, 1988.

Reply from A.S. Cooke and R.S. Oldham, published by New Scientist, 24/31 December, 1988:

Protecting amphibians

We are perplexed by Trevor Beebee's article "How not to save a species" (Forum, 26 November). Can genuine concern for conservation be reconciled with his suggestions? On one hand he recommends that the crested newt would be favoured by scrapping the species protection laws and inviting developers to regard it as commonplace. On the other hand he believes that there should be increased protection of Sites of Special Scientific Interest and increased incentives to landowners to conserve features of interest outside SSSIs. These latter suggestions, although desirable, would seem to offer little real help to the crested newt because fewer than 5 per cent of recorded newt sites occur within SSSIs and how many sites could be additionally protected by incentives?

The Convention on the Conservation of European Wildlife and Natural Habitats (1979) required certain species to be given strict protection; the crested newt and the natterjack toad among them. Britain is a party to the convention and both species are protected by the Wildlife and Countryside Act 1981. The natterjack toad is regarded as endangered in Britain and the crested newt as vulnerable. During the period 1966 to 74, Beebee's own inquiries revealed that at least 50 per cent of breeding sites for crested newts were lost. However, during the period 1980 to 85, an investigation by Leicester Polytechnic (funded by the Nature Conservancy Council) revealed that the loss had been reduced to some 2 per cent. It would appear, therefore, that recent amphibian conservation efforts, including species protection, have paid dividends.

It is quite wrong to imply that the Nature Conservancy Council's involvement in the conservation of protected species is centred on the licensing function. The major effort is directed at safeguarding habitats, site management and research, and is executed in accordance with conservation needs. For crested newts, effort is concentrated upon the most important breeding sites. For natterjacks, every established site is defended and the population has stabilised during the 1980s.

Leicester Polytechnic's national amphibian survey was initiated as a direct result of the inclusion of the crested newt as a protected species and has engendered enormous public interest. Literally thousands of volunteers have participated; contrary to Beebee's suggestion, there is no absence of public sympathy. Equally important is the enhanced awareness of planning authorities,

and hence developers and land owners, that breeding sites need to be taken seriously in land-use programmes. We are increasingly involved in advising on development proposals to ensure the satisfactory conservation of newts and other species.

Perhaps most significant of all is the increased number of requests that staff at Leicester Polytechnic are receiving for "land sifts". These are investigations undertaken on behalf of developers to avoid conflict with nature conservation interests—an excellent example of habitat protection resulting from species protection. If species protection had not been afforded to the crested newt there is little doubt that none of this activity would have occurred.

Yes we need greater protection of habitats, but not at the expense of the level of species protection that we already possess.

*A.S. Cooke, Nature Conservancy Council, Peterborough
R.S. Oldham, Leicester Polytechnic.*

Response from Trevor Beebee, published by New Scientist, 28 January, 1989:

Wildlife and the law

The response of A.S. Cooke and R.S. Oldham (Letters 24/31 December) to my article on wildlife protection legislation (Forum, 26 November) seems to confirm some of my worst fears. I find the thrust of their comments surprisingly complacent.

My criticism was levelled at the law, not its enforcers. The Nature Conservancy Council is the executor of the government's will, and is charged with running licensing procedures to comply with the Wildlife and Countryside Act 1981. In this it has no choice. It was not my intention to impugn the NCC, which in my view generally carries out its duties remarkably well considering its scandalously low funding base.

The 1979 Berne Convention allowed signatories scope for how species were to be protected by national law at the time of ratification; there was no requirement for natterjack toads and crested newts to be treated similarly, though change would be very difficult (technically impossible!) now.

Cooke and Oldham's view of improvements since 1981 is at variance with my own. If losses of crested-newt sites were reduced to 2 per cent between 1981 and 1985, this was not a result of the 1981 act. Virtually no action under the law was taken to protect the species during that period. In my district, 5 out of 13 crested newt ponds I knew of in 1979/80 have been completely destroyed, and one more almost so. All were known to the NCC by 1982, but the act gave no powers to prevent the losses (which were mainly the result of neglect or accident, the major problems identified by Leicester Polytechnic's survey). It is also incorrect to suggest that the population of natterjacks has stabilised. Three of the remaining 30 to 40 British sites are likely to go extinct within the next year or so (indeed, they may already be lost), and one of the largest surviving populations is under serious threat from developers.

Cooke and Oldham also mistake participation in a survey for public sympathy. This is like a minor political party judging its national esteem solely on the comments of its members. Of course, there has been valuable spin-off from the work on crested newts, and this is highly commendable. But two major problems remain: Do the ends always justify the means? And are the ends in any case good enough?

I believe that most of the limited benefits for crested newts which resulted directly or indirectly from the 1981 act could have been obtained without pretending that it is an endangered species. More importantly, any real conservation impact will need stronger habitat protection than we have at present. The vigour with which Cooke and Oldham defend the current situation leads me to conclude that the government's strategy of species protection is an even more effective red herring than I first supposed.

Trevor Beebee, University of Sussex, Falmer, Brighton.