



The Professional Hunters Association of South Africa (PHASA) issued a number of newsletters since its 2017 AGM in an attempt to explain its adoption of a new resolution in respect of captive bred lion (CBL) hunting and also its 2017 constitutional changes. Most notably all references to “ethical” were removed from the constitution and substituted with “legal/lawful”; also, the constitutional provision that a member can, through his conduct, bring the association into disrepute was removed too.

(It must be said at the outset that the terms “hunting”, “hunt” and/or similar words are used in this piece purely for the sake of convenience. The breeding of an animal in complete captivity purely for the purpose of shooting it in a put and take situation is not hunting.)

These newsletters unfortunately contain inaccuracies.

Newsletter 45 says the following:

“Under the previous PHASA constitution the 2015 Resolution was fatally flawed, it could not be enforced and was inconsequential.”

and

“The riders that were added as after fact to the 2015 AGM in an effort to give consequential action to the 2015 resolution were rejected by the High Court in the action of 2016 as being incorrect, misleading and wrong. They formed no part of the 2015 Resolution.” (sic).

and

“FROM THE 2016 COURT PROCEEDINGS IT WAS CLEAR THAT PHASA’S 2015 RESOLUTION HAD NO LEGAL STANDING AND COULD NOT BE IMPLEMENTED.”

(In terms of the 2015 resolution PHASA distanced itself from CBL hunting. The so-called “riders” refer to documents published by PHASA after the 2015 AGM to the effect that members who were involved in CBL hunting may be subjected to disciplinary action.)

These statements in newsletter 45 are extraordinary. They put forward a version of what transpired during the court case that is neither accurate, nor supported by the judgment at all and they grossly misrepresent what the Court in fact said.

Nowhere in the judgment did the Court state or find that the 2015 resolution was fatally flawed, unenforceable or inconsequential. In fact, the validity of the resolution was not even in dispute. It was also never in dispute that the so-called riders were not part of the resolution. The court merely found that the inclusion of the riders, in the affidavit that members were requested to

sign, was incorrect and furthermore that the matter was urgent. The final judgment, i.e. to reinstate the membership of those involved, was agreed to between the members involved and PHASA. The Court went further in its order by leaving the door open for PHASA to bring disciplinary proceedings against the members involved.

This PHASA newsletter goes on to state that:

“PHASA is now in a far SUPERIOR position to apply stricter hunting regulations on ranched lions and can now legally implement disciplinary action against members who contravene the new 2017 Resolution.”

The resolution reads as follows: *“PHASA accepts the responsible hunting of ranched lions on SAPA accredited hunting ranches within the relevant legal framework and/or according to recommendations of the applicable hunting association, such as SCI’s fair chase standards.”*(sic) The resolution includes some definitions and furthermore, purportedly, provides for so-called consequential action: *“Any member who contravenes this resolution may face disciplinary procedures according to the PHASA constitution.”* It is noteworthy that the resolution defines a “responsible” hunt as one that is legal and that promotes the sustainable utilisation of wildlife.

This statement and the situation that PHASA now finds itself in is somewhat ironic, to say the least. During the debate at the AGM on the constitutional changes it was mentioned, time after time, that PHASA wishes to implement “the lowest possible standard” for acceptable hunting practices, i.e. hunting must simply be “legal/lawful” for it to be acceptable. It was furthermore stated, repeatedly, that the PHASA constitution supersedes all else when it comes to considering the actions of its members.

If that is the case, then there is really only one question that PHASA needs to answer and that is:

What will happen to a PHASA member who hunts a CBL in accordance with all minimum legal requirements in say the North-West province (whose laws stipulate amongst other things a shorter release period than the period required by SAPA) on a farm that is not SAPA accredited?

This question is important because such a hunt will, seemingly, fly in the face of the 2017 resolution.

The simple answer is that nothing will happen to that member, the reason being that the hunt was legal/lawful and therefore not against the PHASA constitution.

The irony is compounded further if one considers the 2017 resolution in the context of the arguments put forward by those members who criticised the 2015 resolution, some of whom took PHASA to court and some of whom are now senior PHASA Exco members. They, and by extension now the PHASA Exco, continue to use these arguments to attack the now defunct 2015 resolution and to validate the 2017 resolution. Let us consider these arguments.

It is firstly said that the 2015 resolution was meaningless and unenforceable because it merely distanced PHASA from CBL hunting. It was never resolved, so the argument goes, that members who hunt CBL will be subjected to disciplinary action. Ironically, the 2017 resolution is no different. It merely states that PHASA accepts the hunting of CBL under certain circumstances and, possibly, that members who contravene the resolution **may** be subjected to disciplinary processes. Nowhere does this resolution say that members **may not** partake in hunts that are legal in all respects (and therefore constitutional) but, not in compliance with the SAPA standards/not taking place on SAPA accredited farms. Nowhere does the resolution say what will be viewed as being in contravention of it. And the saga of the riders continues. Newsletter

45 goes on to state that *“PHASA members may only hunt ranched lions on these few ranches.”* (with reference to the SAPA accredited ranches). This stipulation is nowhere to be found in the resolution itself and would seem to be the new rider.

It is secondly argued that the 2015 resolution did not change the constitution, that the constitution supersedes all else and that the resolution is therefore meaningless. Again, the 2017 resolution is no different. It does not change the PHASA constitution to say that CBL may only be hunted i.t.o. the SAPA rules and on SAPA accredited ranches. Despite the resolution, the PHASA constitution remains silent on CBL hunting and still only requires a hunt to be legal/lawful.

The old constitutional stipulation that members could, through their actions, bring the association into disrepute was removed from the constitution in 2017. This new void in the constitution makes the 2017 resolution even more meaningless. Non-compliance with the 2017 resolution can, as long as the hunt is legal/lawful, no longer bring the association into disrepute.

Furthermore, the wording of the resolution, and therefore its exact meaning, is confusing. It stipulates that hunting must take place on SAPA accredited ranches but, no mention is made of it happening in terms of the SAPA standards. It simply refers to the *“relevant legal framework”* and then there is a vague reference to *“recommendations of the applicable hunting association, such as SCI’s fair chase standards.”* SAPA is by definition excluded from being such an *“applicable hunting association”*. The reason for the inclusion of the SCI standard is unclear. Perhaps PHASA should attempt to clarify the resolution without adding any riders to it.

As a side note, in the same newsletter PHASA also states the following: *“Issues that are subjective or morally selective such as ethics, are not clearly defined and can’t supersede the legal parameters of the South African Constitution.”* It is unclear on what legal basis this statement is made. The Court, in the mentioned case, certainly did not say anything that resembles this statement. There is also not a general legal rule in our law that says that voluntary associations may not make their own rules that are stricter than the laws of the land.

In Newsletter 46 PHASA says that it is *“embracing its responsibility ... in the Biodiversity Management Plan (BMP) for the Lion ... (in) That PHASA must “Assess the management of the captive lion population.”*

To use this *“responsibility”* as a justification for the 2017 resolution and constitutional changes is somewhat desperate. Assessing the management of something does not mean that one must embrace it as an acceptable practice.

This newsletter also states that *“South Africa’s National legal requirement for the hunting of predators is of a higher standard than the ethics of most other African or International Hunting Associations.”* This statement will undoubtedly be viewed with some interest by other associations.

In newsletter 47 PHASA says that it *“has in no means changed its ETHICAL HUNTING STANDARD and the claim that PHASA has turned its back on “Ethical” practices such as fair chase to adopt lower “Legal” standards are unfounded. “Fair Chase” & “Ethical Conduct” are legal requirements for all hunting organisations in South Africa under the National Environmental Management Act”.*

The first and obvious problem with this statement is that PHASA removed all references to ethical from its constitution. The second is that during the deliberations on the constitutional changes

it was said, on more than one occasion, that PHASA wishes to implement “the lowest possible standard” for acceptable hunting practices.

After adoption of the CBL resolution at the 2017 AGM the question was asked from the floor, twice, whether PHASA now condones the hunting of CBL. It was answered in the affirmative.

In all the newsletters PHASA states that it “*vehemently rejects any and all forms of canned or illegal hunting*”. It then relies on certain hunting methods prohibited in terms of our TOPS legislation in an attempt to define “canned”. These prohibited methods have little, if any, bearing on whether the hunt is “canned” or not and nor is there an actual definition in SA law for “canned hunting”. The rejection of canned hunting but the acceptance of CBL hunting is, simply put, artificial. In both cases the following happens: lions are bred in captivity, a specific lion is selected, prior to the hunt and based on the requirements of the hunting client, for release from its enclosure onto a farm (SAPA requires a minimum of 1,000ha and the smallest accredited farm is 1,100ha and only one of the 8 accredited farms exceeds 10,000ha). Hunting may then legally commence within 96 hours of release and the lion is shot usually within a day or two of the hunt commencing.

Newsletter 46 goes on to state that “*it is regrettable that 5% of PHASA members resigned as a result of inter alia disingenuous media statements by individuals and certain Hunting Associations*”.

This statement seems to suggest that those opposed to PHASA’s new position are a small, uninformed minority. PHASA’s new position was however emphatically rejected by the following in the hunting community: **all** the African professional hunting associations – OPHAA, NAPHA, SOAZ, ZPGHA, PHAZ, TPHA and APHA; by SAHGCA, the largest hunting association in South Africa; by WSF and Boone & Crocket in the USA and by the IPHA. During the 2015 AGM PHASA was presented with correspondence signed by 17 USA based hunting associations wherein the practice of CBL hunting is rejected. During the 2017 AGM representatives from CIC and Conservation Force spoke against this practice. The marketing of CBL hunting is no longer accepted on the floors of the major European hunting trade shows, including Dortmund. PHASA sponsors bookyourhunt.com and Rip Cord reject CBL hunting and withdrew their support of PHASA, as did the Hunting Report. At least three major awards were withdrawn from PHASA.

Global and local conservation bodies, most of whom view legal and ethical hunting as an important conservation tool, reject this practice. These include the IUCN, of whom DSC is a member, and the world’s leading lion conservation and research organisations, among them the African Lion Working Group and EWT. It is their view that CBL hunting simply has no conservation benefits. The USFW is of the same view and refuses the importation of CBL trophies into the US. Australia stopped the importation of all lion trophies purely because of CBL hunting. In South Africa, the Southern African Wildlife College terminated its relationship with PHASA because of CBL hunting.

It would seem that the 5% of members who resigned may well, in the world of hunting, not be in the minority after all.

Finally, the 2017 resolution and constitutional changes were aimed at bringing SAPA and CBL hunting into the PHASA fold. If SAPA was so convinced of the broad acceptability of and recognition for CBL hunting, why did it not go it alone? Why did it need PHASA? During presentations at the AGM, SAPA mentioned that the release period should in their view be as short as possible in order to minimise stress on the lion that is released and shot. How does one even begin to promote or defend an activity where something like this is a consideration? SAPA also declared that it is their hope to ultimately stop the hunting of all wild lions. SAPA, in an attempt to convince US authorities of the alleged conservation value of CBL, wrote a letter to US

Interior Secretary Zinke. The world's leading lion conservation and research organisations, among them the African Lion Working Group and EWT, had this to say about the arguments put forward by SAPA:

"The points (raised by SAPA) are presented repeatedly, with little or no evidence to support them"

and

"SAPA does not currently represent any lion biologists, researchers or conservationists in their membership or their board, and as such, we do not believe that the association is equipped, or qualified, to make statements or recommendations on the conservation of the species..."

and

"We wish to express that SAPA's letter is fraught with inaccuracies, false statements, and a flawed viewpoint that is shaped for the economic benefit of captive lion breeders. We recommend that USFWS maintains their current position which is to ban the importation of captive - origin lion trophies. Nothing has changed in the South African context since the previous US FWS finding that can justify a change of position."

and

"The hunting of captive - bred lions neither benefits biodiversity conservation, nor the conservation of wild and free - ranging lions."

Sadly, SAPA, an association with no recognized lion conservation credentials or track record, is now firmly entrenched in PHASA.

Hunting is under threat. Now, more than ever, do we need the support of the undecided middle ground – that majority of the population that is neither for nor against hunting. It is that segment of the population that will ultimately influence our future one way or another. One can only successfully engage with the non-hunting public and mainstream media, proudly and openly, if one does not partake in practices that are clearly and blatantly abhorrent and unacceptable. For the sake of our own values as hunters and for the long-term future of hunting we must hunt within the boundaries of a hunting ethos – ethically and responsibly. To breed wild animals in a cage purely to be released and shot for financial gain does not fall within those boundaries, especially when there is no demonstrable conservation value.

We trust that this separates fact from fiction.

CPHC-SA

16 December 2017

Further reading: Statements by WSF, OPHAA, NAPHA, SOAZ, ZPHGA, PHAZ, TPHA, APHA, IPHA; Letter from SAPA to Interior Secretary Zinke and the response by ALWG and others thereto; IUCN motion adopted at the IUCN World Conservation Congress in September 2016 - Terminating the hunting of captive-bred lions and other predators and captive breeding for commercial, non-conservation purposes.