

EXPAND YOUR GAME 2018

● Hunting ● Breeding ● Tourism ● Products

CONFLICT RESOLUTION IN THE WILDLIFE INDUSTRY

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INTRODUCTION

- WILDLIFE INDUSTRY – WIDE, COMPLEX AND MYSTERIOUS
- PARTICIPANTS MANY AND VARIED
- FERTILE ENVIRONMENT FOR CONFLICT

CONFLICT –TYPICAL EXAMPLES

- Buying and Selling (Inter Se, Agents and Auctions)
- Conservation (Many interested parties)
- Roads, Gates and Fences (Neighbours and Public)
- Poaching, Fraud, and Theft
- State Regulation: Permits, Permissions, and Protection
- Hunting Rules: * Biltong
* Trophy – Local/International
- Green Activism: Local and Overseas
- Threat to Land itself as result of Government Policy

- Farmer in Limpopo sells Roan to Buyer in Cape Town, through an agent telephonically, to be delivered on a farm in the Freestate overnight.

Relationships

State issues import and export Permits

Owner of game and his representatives (e.g. PH & VET)

Agent who originally introduced buyer & seller

Owner of Land in Freestate (receives game injured/dead)

New owner (in Cape) not present, only telephonically involved.

Transport – independent contractors

Insurance

PROBLEMS WITH ADJUDICATION (COURTS AND ARBITRATION)

- Stranger introduced to the Relationship/ No legitimacy
- Facts and principles
- Ex post facto (after the event)
- Adversarial
- Artificial
- Slow and cumbersome
- Costly
- Win-lose settlements (dissatisfaction)
- Denies access to poor
- Static not dynamic solutions

ALTERNATIVE DISPUTE RESOLUTION (ADR) (Alternative to the courts)

APPROACHES

- ❖ Reconciling interests – negotiation
- ❖ Deciding who is right – adjudication
- ❖ Deciding who is more powerful

DEFINITIONS

- ❖ Negotiation * Concessions Towards agreements in respect of
 - Past events (Rights)
 - Future Events (Interests)(Mostly Polycentric-i.e. Multi-faceted)

- ❖ Adjudication * Proof and Reasoned Argument
(Introduces Stranger to Relationship)
(Binary/Coercive)

- ❖ Power * Function of Dependency
Power of A over B = Dependency of B on A
 $P_{ab} = D_{ba}$
(Disruptive)

ADR MECHANISMS (Examples)

- Choose or create appropriate mechanism after thorough analysis of the problem. BE CREATIVE and choose or create an approach from a TOOLBOX of POSSIBILITIES.

Examples of toolbox:

Fact-finding

Negotiations

Mediation

Ombudsman

Arbitration

MED-ARB

ARB-MED

Mini-Jury Trial

Summary Jury Trial

Combinations

- DISPUTE SETTLEMENT

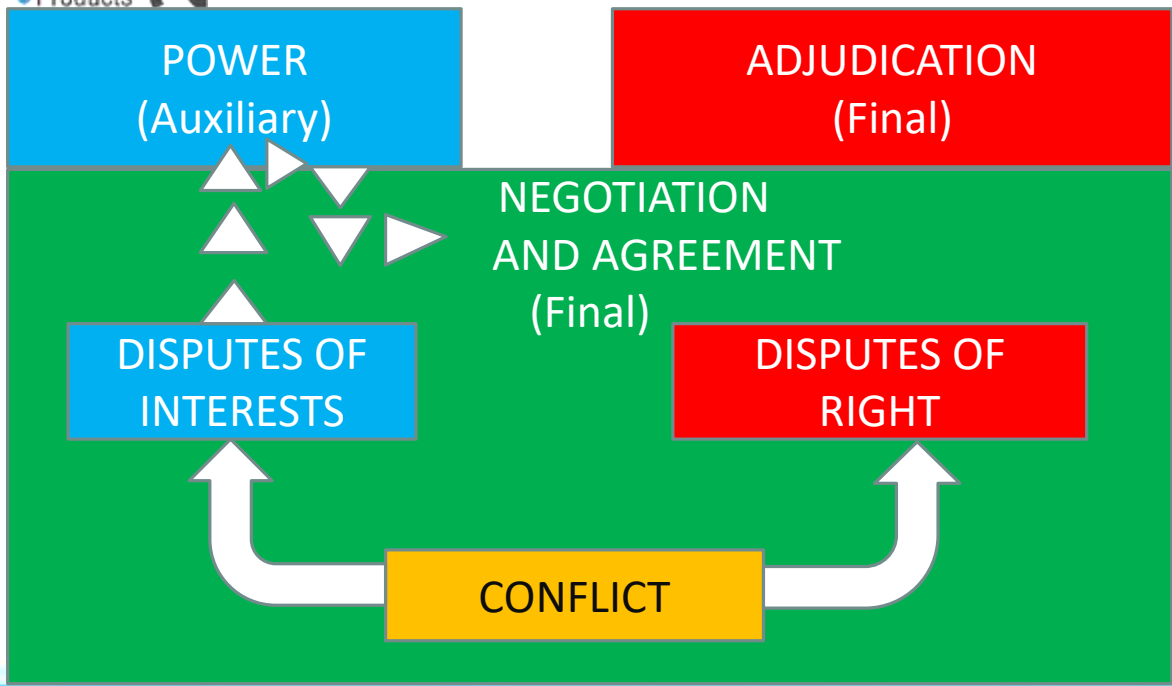
Reconcile Interests

Decide who is Right (after settlement negotiations)

Decide who is more Powerful (after rule-making negotiations)

- ❖ Analyze, analyze
- ❖ Decide
- ❖ Choose/Create
- ❖ Appropriate Mechanisms

DISPUTE SETTLEMENT DESIGN



“PREVENTION IS ALWAYS BETTER THAN CURE”:

- Survey of repetitive problems.
- Research problem areas identified.
- Write guidelines with examples.
- Draft standard agreements.
- Case studies developed.
- Reading material accumulated/ selected.
- Training (ADR for Wildlife Practitioners).
- Create private dispute resolution expertise for the industry, including farmers, agents, professional hunters, outfitters, etc.

CONFLICT FACING THE INDUSTRY

- Negative publicity
- Over-regulation
- Marketing/ Prices
- Conservation extremes
- Expropriation without compensation

JOURNEY INTO THE INTERIOR

- Analyze Strengths and Weaknesses
- Power building by
 - Emphasizing Commonalities (Promote Unity)
 - Economic excellence
 - Numbers
 - Exclusivity
 - Food Security
 - Foreign Investment
 - **Conservation** – Best in the World because of

Private Ownership

Shakespeare: "The readiness is all"!