

## FORUM

**Works of art and ivory: what are the issues?**MARTIN P. LEVY 

**Abstract** There is nothing new about worldwide concern for endangered fauna and flora. Indeed since 1975 the protection of threatened species has been enshrined in the Convention on the Trade in Endangered Species (CITES). But most recently, the fate of the African elephant has been subject to particular scrutiny. This culminated in President Obama's 2014 "Director's Order 210". Since then the movement of ivory into the States has effectively been banned, and internal commercial transactions subject to impossible restrictions. This affects the ability of museums to add significant works of art to their collections. Is this the correct approach? Surely the protection of endangered species and the preservation and presentation of "antique" works of art made of or containing ivory are not mutually exclusive.

In a world increasingly troubled about its very survival, conservation, in many guises, is a huge issue. Top of the list of publicly expressed concerns is the big one: climate change. After all, were the direst predictions to come to fruition, mankind itself would have become inescapably endangered, ultimately to the point of extinction. I make this point not to express any position on a matter in which I have no expertise, but rather to put into context the on-going debate on endangered species, and here, specifically, the African elephant.

Against this background, and beyond the well-informed comments of conservationists, opinions abound. Public awareness of this issue has been heightened, for example, by considerable celebrity support. Meanwhile, endangered species and threatened rain forests enjoy a comparable, if not always properly informed, voluble profile. After all, who does not want to save the planet? As just one example, Hillary Clinton

and her daughter Chelsea disappointingly appeared to make no distinction between the repugnant and illegal slaughter of elephants today, and the no less significant preservation of works of art incorporating ivory created over the millennia. The Clintons endorsed "a complete ban on ivory sales in the US" (Clinton and Clinton 2014). If you are standing for public office, you surely know where the consensus of the electorate's sentiment is going to rest on such an issue. However complex the questions, and regardless of how nuanced the solutions need to be, the public will unerringly tip towards the easy, "feel right" solution, particularly when their solution has no impact on their day to day lives (Jenkins 2016). And, to keep the African elephant crisis in brutal perspective, it should be noted that in March 2017, according to a UN report: "20 [million] people in Yemen, Somalia, South Sudan and north-east Nigeria" were at risk of starvation (Pilling 2017).

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But let me be clear about my personal view: the question of endangered species has properly engaged public attention, and the African elephant, in some parts of the continent, is at considerable risk of extinction through poaching. This has understandably become a *cause célèbre*. The public is broadly correct: the African elephant, despite the efforts of many on the ground in that continent, is in danger of being dramatically diminished.

**BUT HOW, IN GENERAL, IS THIS ISSUE BEING TACKLED?**

Worldwide concern for endangered species, both fauna and flora, is nothing new. With the growth of public anxiety, protection was enshrined in the Convention on the Trade in Endangered Species (commonly known as CITES), ratified in 1975. This Convention has widespread support and is the backdrop to specific protocols now operating, by and large successfully, in countries across the world.

In February 2014, against the heightened awareness of increased poaching of the African elephant, President Obama published *Director's Order 210*, which proposed what instantly became a *de facto* ban on the import of *any* ivory into the United States. Did this make sense? Had the “law of unintended consequences” been considered? It rapidly became clear that the answer depended on how the question was asked. Do you want the trade in ivory banned so that the elephant may be saved? Of course! Do you know precisely where elephant herds are most at risk, and where they continue to thrive? Perhaps not. Do you want you and your children to learn about the past from museum displays that include works made of or containing ivory? Why not! Over the past couple of years, the present writer has made a point

of observing the public looking at ivory in museums across the West: including, in the States, from San Francisco to New York, and in Europe, in Amsterdam, Florence, London, Munich, Paris, Stockholm, the Vatican and Vienna. Individuals and families have been engaged, with no one turning away in disgust. As Holly Trusted at the Victoria and Albert Museum has reported: since the issue of ivory gained traction three years ago, the museum has received just one solitary complaint (out of over three million visitors annually) about its exceptional display of works incorporating, or manufactured from, ivory.

This suggests that while the aims of wildlife conservationists are universally understood by art world academics, curators, collectors and dealers, such unequivocal support is far too seldom reciprocated. It might fairly be argued that this should not even be a debate, and rather that both positions can be beneficially maintained. We need to save elephants and, at the same time, preserve and enhance understanding of our universal cultural inheritance, including works created using ivory.

Esmond Martin and Lucy Vigne have long experience in the landscape of elephant conservation, as well as the markets for modern ivory. In a thoroughly researched recent report on Vietnam's illegal ivory trade (Vigne and Martin 2016), presented in objective and unemotional terms, they demonstrated the scale of the problem being fed by Asian demand for trinkets. The report, one of several excellent works produced by the duo, notes that the number of artisans at work in Vietnam has increased ten-fold since 2008, and observes that “lackadaisical law enforcement at both Vietnamese and Chinese customs has enabled the illegal ivory trade to flourish, and the illegal killing of elephants in Africa continues unabated.”

But let us look at where we stand with regard to issue of *bona fide* works of art. First and foremost, this examination needs to concentrate on the United States. The situation in most of Europe, to which I shall return, remains broadly benign, despite some heavyweight lobbying and disturbing utterances.

The argument in favour of maintaining the CITES-compliant flow of “antique ivory” (and this is the shorthand used hereafter to describe legitimate works of art that comply with CITES aims) has been explained and widely publicised from the moment *Director’s Order 210* was published 25 February 2014. According to Dalya Alberge (2014), the proposed ban would “have a drastic impact on exhibitions, scholarship and the trade in antique masterpieces, while doing nothing to stop the slaughter of an endangered species”: surely we can agree with this assertion? And as J. Paul Getty Trust president James Cuno was quoted in the same article, a ban: “would inhibit our appreciation...of these antique objects” and their cultural role.’

The argument being reiterated here is exclusively concerned with historic works of art made of or containing ivory: objects covered by CITES-compliant national jurisdictions. It should also be emphasised in passing that the UK’s long-standing cut off date of 1947 makes more sense than the “one hundred rule” in the United States. After all, this rolling time frame ultimately risks legitimising something manufactured in the 1990s, and so on. Perhaps the law will change in the future to acknowledge the anomaly. But if so, where would the cut-off date fall? Moreover, and as but one example, the “hundred year rule” would in 2017 render “illegitimate” masterpieces of the Art Deco period such as the magnificent “*État*” cabinet (Figure 1). Designed in 1922, it was commissioned and acquired in 1925 by the Metropolitan Museum of Art; a variant of this piece was

shown at the *Exposition des Arts Décoratifs et Industriels Modernes*, and purchased by the French government.

The issue that has led to the current, not always rational, calls for an outright ban is the epidemic of trinkets and meretricious ornaments made out of poached ivory, flooding the Asian market and also sold, far away from the art market, in the USA and elsewhere. Again, let us be clear: the market for these baubles can and should be stamped out. Indeed, the authorities simply need to enforce CITES recommendations in their own jurisdictions.

It seems hardly necessary to rehearse at length the educational benefits of making available the material culture of past millennia, created across the world, nor to explain the role played by museums in particular and most widely in demonstrating the context for these often beautiful, if often nothing more than utilitarian survivals. In his influential *Civilisation: A Personal View* (1969) Kenneth Clark instinctively selected ivories alongside works in other media to demonstrate some of the pinnacles of Western culture and creativity. That some of these pieces, ranging from masterpieces of artistic creativity to the everyday artefacts made of a material readily available, are of elephant ivory is a matter of historic fact, and a source of valuable information about the tastes and mores of people and places who form part of our universal social and cultural inheritance.

As just one example of how the public has benefited from the historic preservation of antique ivory, take the Walters Art Gallery in Baltimore. “Numbering more than 1,100 objects, which range in date from 4500 B.C. to A.D. 1900, the Walters collection of ivories is an extraordinary *tour de force*, particularly when one considers that, with very few exceptions, all of the works were collected by one man – Henry Walters [1848-1931]. William Walters, Henry’s



**Figure 1.** Etat cabinet. Photo: The Metropolitan Museum of Art

father, had collected Far Eastern ivories – particularly netsuke, of which the museum has a collection numbering more than 400 pieces. . .” (Canby et al. 1983, p. 3). Here we see the value

of private patronage turning into philanthropy, a story told in museums across the continent of North America. From many other examples, attention might be drawn to a contemporary of

Walters, the munificent collector, J. Pierpont Morgan (1837-1913). Amongst many works now on permanent public view, and one of the prides of the collection at the Wadsworth Athenaeum, is the seventeenth-century ivory and silver-gilt *Covered Tankard with the Queen of Sheba before Solomon* (Figure 2).

In passing, I should comment on a view occasionally expressed: that there should be different rules for museums and for collectors. Why? These groups are little more than different inhabitants of the same world, and with interests in common. Not all private collections are ceded to public ownership, but many are. And equally, think how many exhibition loans are credited to a “private collection”. The cooperation and interdependence of academics, museums and collectors is far more commonplace than was the case fifty or a hundred years ago.

Leaving aside the vast historic collections in North American museums, we should look at what has been acquired for the sake of public benefit and scholarship in recent years. In a paper *The Impact of the Federal Rule on Museum Quality Ivory Objects* (Wardropper 2016), the Frick Collection Director Ian Wardropper (2016) listed just a few of the very many works of art that, as the law now stands, could no longer be brought into the States and acquired. These include examples as diverse as: *Plaque with the Fountain of Youth*, Paris, circa 1320-40, The Cloisters Collection, New York, 2003; a figure attributed to François Du Quesnoy (1597-1643), *Christ Bound*, Flemish, 1620s, National Gallery of Art Washington, 2007, and a piano and matching stools designed by Sir Laurence Alma Tadema (1865-1940) for Henry Marquand, circa 1884-87, Clark Art Institute, Williamstown, 1997.

In July 2015 the Art Institute of Chicago acquired *The Brand Cabinet* (Figure 3). Considered such a masterpiece of design and

manufacture, as well as a significant insight into eighteenth-century patronage, this was, on two separate occasions, submitted to the United Kingdom’s Reviewing Committee on the Export of Works of Art. The second time, after a failed fund-raising campaign, it entered an American private collection; the owner subsequently arranged for it to be sold to Chicago. It is hard to over-estimate the aesthetic and educational value that such a work adds to a public collection. As recently as last year, to further emphasise how a work of art containing ivory can inform at an artistic and historic level, the Metropolitan acquired for its forthcoming British gallery re-installation a lidded box incorporating ebony, engraved ivory, tortoiseshell (all endangered species). This work, dating from around 1760-65, was undoubtedly made for Warren Hastings in Vizagapatam (Figure 4); it is a significant addition to the collection which could not have been made had this CITES-licenced object not already been in the States. As Luke Syson opined in London in July 2016: “I very much hope this is not the last work of ivory the Museum can acquire.”

Beyond the pleasure and education offered to a wide, international public, by the work of museums across the States (not to mention the rest of the world), there are the more scholarly opportunities that these collections afford to curators and others working in a multitude of fields where ivory is but one of the materials they encounter. In 2013, then Minneapolis Institute of Art curator (at the time of writing Director of the Uffizi), Eike Schmidt organized the important exhibition “Diaphanous passions-Baroque ivories from the courts of Europe” at the Museo degli Argenti, Florence. The exhibition afforded specialists from across the globe the once-in-a-lifetime opportunity to compare exhibits, drawn from important collections, under the same roof. Moreover,



**Figure 2.** Covered Tankard with the Queen of Sheba before Solomon. Photo: Wadsworth Atheneum Museum of Art



Figure 3. The Brand Cabinet. Photo: Art Institute of Chicago



**Figure 4.** Lidded box incorporating ebony, engraved ivory and tortoise shell. Photo: The Metropolitan Museum of Art

significantly, the show enjoyed huge public support, receiving over three hundred thousand visitors.

The publication of *Director's Order 210* caused widespread consternation. This led to lobbying by groups such as AAMD, which as a representative of the American museum world was able to elucidate in Washington the intellectual and aesthetic value of “antique ivory”. This group was able to make the case without the danger of “special pleading” that always risked being attached to the excellent lobbying undertaken by the trade and auctioneers, as well as by groups of collectors. But it is collectors here who perhaps need a particular mention. If the case of Henry Walters is

exceptional, it is also indisputable that public collections across the world, but perhaps notably in America, have benefited from the extraordinary generosity of wealthy (and indeed more modest) collectors. With regard to the present discussion, it can be demonstrated that many of the great examples of “antique ivory” on public show, arrived by gift or bequest. Equally, collectors advised and encouraged by curators, often directly provide the funding for museum acquisitions. But, at a stroke, no new “antique ivory” can be collected abroad, and brought back to the States. Surely this is a myopic imposition?

A period for consultation on the “proposed rule” followed, but meanwhile States such as



New Jersey and California formulated their own even more draconian bans. On 2 June 2016, US Fish and Wildlife Service issued a press release headlined: “Administration Takes Bold Step for African Elephant Conservation: Completes Near-Total Elephant Ivory Ban to Cut Off Opportunities for Traffickers. Special rule for African elephants under the Endangered Species Act contains limited exemptions for *bona fide* antiques and items with small amounts of ivory that are not drivers of poaching.” On 6 June, the impossibly bureaucratic, so-called “final rule” was published. This included some welcome clarification regarding inter-museum loans, that should give comfort to European institutions and collectors from whom loans are sought for scholarly exhibitions. There are also limited concessions for musicians whose instruments include a small element of ivory. But, as Wardropper reported in his 2016 article “in early June 2016, the Final Rule was announced by the US Fish and Wildlife Service, effectively imposing a near-total ban on commercial trade in African elephant ivory. Fundamentally, the Final Rule differs little from the Proposed Rule” (p. 15). It would not be unreasonable to suggest that the “rule” and most of what it contains, along with the lengthy explanation (*Revisions to the Endangered Species Act (ESA) Special Rule for the African Elephant. Questions and Answers*) is, sadly, scarcely worth discussion: at best it represents a pyrrhic victory. The outcome for *bona fide* “antique ivory” is indeed what IFAR describes as: “a near-total ban”. Why?

In coming to its conclusion, US Fish and Wildlife Service noted that it had received 1.35 million public comments. Having periodically looked at the “comments” online during the consultation period, it would seem fair to say that very many of these were from well-intentioned and genuinely sympathetic individuals, but seldom included any sort of rigour or

balanced judgment in their arguments. And at a political level, as Wardropper quotes Craig Hoover, US Fish and Wildlife Service Wildlife Trade and Conservation Branch Director statement: “the decisiveness of the Rule would ensure that the US market is not contributing to poaching and the elephant ivory crisis. Moreover, it positions the US to push China and other countries to take similar decisive action.” Indeed, at the end of 2016 China announced that it would implement a comprehensive ban on the *illegal* ivory trade by the end of 2017 (Financial Times 2016a). This move, which also acknowledges the “cultural value” of works of art, should be welcomed as sending a strong message to those who would poach and traffic illegal ivory. And, as Martyn Davies, a managing director for Deloitte in Johannesburg is quoted: “It’s a good image-enhancing exercise” as China evolves its geo-political positioning (Hernández 2017). If, however one believes, as surely is the case, that there is *no* connection between poaching and *bona fide* “antique ivory,” then the US Fish and Wildlife Service US argument has to be seen as one that is spurious and ill-judged. Indeed, no evidence has been presented to make that case. Dare one suggest that, like all government agencies, US Fish and Wildlife Service is under-resourced and that economically it is far easier to impose the blunt instrument of a blanket ban, than to continue to monitor the CITES-certificated legitimate market? None of the arguments used for the “final rule” acknowledge the fact that there are no issues around the identification of genuine *bona fide* “antique ivory.” As the present author has written (informed by scholars working in the field), “it can also be said with confidence that controversies over the dating of ivory sculpture and other works of art (whether the raw material was of African or Indian origin) do not exist: this is not an issue.” (Levy 2014). As but one

recent example of the high level of academic scholarship on ivory, attention might be drawn to Francesca Dell'Acqua and her contemporaries research published in, *The Salerno Ivories: Objects, Histories, Contexts* (Dell'Acqua 2016).

So, more than three years on from the publication of Director's Order 210, the collecting of "antique ivory" in the United States remains moribund. The consultation has resulted in a confirmation of the *status quo*. The *de facto* ban on works of art, even with the *de minimis* concessions, does nothing to acknowledge the status of works of art. Organisations such as the Ivory Education Institute have been resolute in challenging California's own ban, most recently in an ultimately unsuccessful (and somewhat technical) lawsuit delivered to the Superior Court in August 2016. But efforts need to be redoubled in Washington, and across State legislatures, to demonstrate that there are two totally unrelated issues at play: the real risk of the African elephant being poached to extinction, and the study and display of historic works of universal cultural significance. Both are under threat, but not from each other: to make such a suggestion is to ignore the facts.

To date, the difficulties created for the movement of "antique ivory" have mainly been in the States. In the United Kingdom, the Department for Environment, Food & Rural Affairs (Defra) has been steadfast over CITES, and pragmatic over its application. This department, the equivalent of US Fish and Wildlife Service, continues to differentiate between "antique ivory" and the rest. In a recent pronouncement (21 September 2016) Andrea Leadsom, the then Secretary of State at Defra, announced a *total* UK ban in the trade of any ivory that could not be dated before 1947. This move has been widely welcomed as a proportionate

response to the on going and unresolved issues of poaching and trafficking. But at the same time, some conservation groups continue to demand an unwarranted total ban on ivory: period. This is not the place to enter into the discussion about some partial liberalising of the market for modern ivory, called for by some African countries at the recent Johannesburg 17th Conference of the Parties to the Convention on the International Trade in Endangered Species of fauna and flora (CITES). Suffice it to say that the European Union, and the UK as part of that group as well as independently, supported a realistic approach that moves towards the eradication of the illegal trade, while maintaining the movement and marketing of stringently documented "antique" works. In a subsequent development, the "environment committee" of the European Parliament voted on October 13 to back a full and immediate EU-wide ban on ivory and rhinoceros horn trade. There is no reason to think that this call is intended to include "antique" ivory.

While the UK's ruling Conservative Party indeed included a reference to a "total ban" in its Manifesto before the 2015 General Election, this was dropped from the Manifesto drawn up for the June 2017 General Election. One must hope that the newly, and narrowly, re-elected and weakly-positioned Prime Minister Theresa May will for the foreseeable future be preoccupied with negotiations resulting from the Brexit vote, and be disinclined to pay too much attention to such a controversial issue. The revised stance reverses the Government's previously held position, and moreover enjoys a degree of cross-party support, despite calls in the 2017 Labour Party Manifesto for an out and out ban, without exceptions. As Ed Vaizey, former Minister for the Arts, stated in September 2014, it is important "to distinguish between the traffic of

illegal ivory and the legitimate trade in antiques which contain ivory.”

On 29 October 2016, the *Daily Telegraph*, egged on by a melodramatic BBC “documentary”, published an open letter to the Government from a plethora of conservationists, politicians and celebrities (Daily Telegraph 2016). As so often, this emotive broadside calling for a total ban on the movement of ivory, including for *bona fide* antique ivory, made no attempt to differentiate between genuine works of art, and the sort of pieces the government is seeking to outlaw. Political pressure, for example in the form of a written Parliamentary Question from former Foreign Secretary Lord Hague, continues to be exerted. The answer, on 8 November, was a full declaration of the Government’s position, and one that, on careful reading, made no rash commitments:

We will be working with EU Member States to consider our approach to Resolution 10.10 (Rev Cop16) as amended and any necessary changes to the EU Wildlife Trade Regulations to implement the decisions made at the 17th meeting of the Conference of Parties to the Convention on International Trade in Endangered Species (CITES). In doing this, we will also draw upon the Council Conclusions on an EU Action Plan against Wildlife Trafficking agreed in June which ask Member States not to export or re-export raw, old ivory from elephants and to consider further measures to stop the commercial trade in ivory, an outcome the UK actively negotiated to secure.

In addition, prior to the CITES Conference on 21 September 2016, Defra’s Secretary of State announced plans for a ban on sales of items containing ivory dated between 1947 and the present day. The Government will consult on

plans for the ban early next year. This is a key step forward as we work towards our manifesto commitment to press for a total ban on ivory sales.

However, as a further example of the determined efforts being made to link works of art to poaching, on 8 December Members of Parliament held a debate at Westminster Hall. During the emotion-driven session, Anne Main (in the chair) asked one of the many participants who waxed lyrical with sentimental memories of times in Africa if she could “bring her remarks back to the UK ivory trade”. It was a disheartening occasion that demonstrated how the public’s misunderstanding of the issues risks misinforming some of our lawmakers.

The catalyst for yet another debate in Westminster Hall on 6 February 2017, scheduled by the Petitions Committee, was the more than 100,000 signatures demanding parliamentary consideration of the motion: “That this House has considered e-petition 165905 relating to the domestic ivory market in the UK”. The simple question: would a ban on the movement of *bona fide* works of art made of or including ivory save a single living elephant, was not answered, nor indeed effectively addressed by any of those proposing a ban. In summing up, Thérèse Coffey, the Parliamentary Under-Secretary at Defra (the Department for Environment, Food and Rural Affairs), satisfactorily reassured the fewer than thirty members of the House who attended the debate, that the Government planned to introduce a proportionate and effective ban, and that it would consult with the conservation lobby and those involved with works of art to finalize a robust and workable set of rules.

The United Kingdom now waits to see if the promised consultation will take place during what are likely to be overwhelming and time-

consuming Brexit discussions. But for now, we live with the *status quo ante* [*This consultation was finally announced by Michael Gove, Secretary of State at Defra, on 6 October 2017, as this article was going to press*].

As an example of the United Kingdom's prevailing enlightened attitude to ivory, in August 2016 the Minister of State at the Department for Culture, Media & Sport (DCMS) accepted a recommendation from the Reviewing Committee on the Export of Works of Art that Balthasar Permoser's ivory figures *Autumn* and *Winter*, dating from c. 1695, be temporarily barred from export to allow them to stay in the British Isles. Lowell Libson, a member of the RCEWA described these as "important examples of baroque art. . . exceptional for the beauty of their conception and the refinement of their execution." In the end, however, funds were not found, and these figures appropriately rejoined *Spring* and *Summer* in Braunschweig.

In May 2016 Ségolène Royal, France's environment Minister, added her voice to international pressure against the illicit trade in endangered species, in particular the African elephant (Financial Times 2016b). But, like so many public figures, Royal appears to have been in danger of confusing the preservation of wildlife with the utterly different issue of works of art, created over the millennia, that happen to be made of, or contain, ivory. Surely, notwithstanding that confirmation of the ban slipped out during *les vacances*, a country as deeply civilized as France would not wish to undermine the study, exhibition and collecting of many elements of its own culture, which include, in particular, widely admired Gothic ivories. Indeed, an ivory diptych of this type was presented by President de Gaulle to Pope Paul VI (1897-1978), is proudly displayed in

the Treasury of St Peter's, Rome. Also in the Treasury is another diplomatic gift: two tusks given by King Emmanuel of Portugal to Pope Leo X (1475-1521). The original release left room for negotiation by stating that "special exemptions may be granted." A full reading of Royal's measures appears, perhaps surprisingly, "to permit the sale of items worked as late as July 1, 1975 – if supported by CITES documentation" (McElhatton 2016).

The draconian order, dated 16 August 2016, was later amended and put out to consultation. The latest version provided for "exceptional derogations for the trade and restoration of manufactured articles which are found to have been manufactured before 1 July 1975, the date of entry into force of the Convention on Trade in Wild Fauna and Flora Of endangered wild flora (CITES)... Articles of elephant ivory or rhinoceros horn whose trade and restoration are no longer prohibited or which may be subject to derogations are therefore objects of art, antiquities or ancient instruments ..."  
(*Projet d'arrêté modificatif de l'arrêté du 16 août 2016 relatif à l'interdiction du commerce de l'ivoire d'éléphants et de la corne de rhinocéros sur le territoire national*). Meanwhile, according to Anthony Meyer, who represents the Syndicat National des Antiquaires on ivory (consulted in March 2017 during TEFAF Maastricht, along with other exhibitors at the fair), the market for ivory works of art in France has ground to a halt. And while many stands at TEFAF displayed a diverse range of outstanding ivory works of art, dealers reported that current uncertainty left the market in a weakened state.

In May 2017, the French passed their new law, although it has yet to be seen how it will work in practice. In respect of pre-1947 ivory it

is business as usual for objects containing up to 20% ivory by volume. For items comprising more than 20%, it will be necessary for a government certificate to be applied for on a case-by-case basis. Rather surprisingly (given all the earlier reports that France was introducing a “complete” ban) the sale of post-1947 and pre-1975 items weighing less than 200 g can continue, along with post-1947 ivory keyboards and violin bows containing ivory.

There are commendable and justifiable reasons why museums and collectors are vigorously addressing the highly complex issues raised by twentieth-century spoliation and looting, and the consequent questions about restitution and repatriation. But ivory is far simpler, and certainly cannot possibly justify any of the paroxysms of postmodern angst afflicting the sometimes more politically motivated aspects of the restitution/repatriation debate (see Tiffany Jenkins, *Keeping their Marbles*, Oxford, 2016).

It is time that everyone who supports the protection of species threatened with extinction recognized, with equal passion, that pre-convention works of art made of or containing ivory offer no threat, and are indeed equally worthy of preservation. The conservationist Lucy Vigne believes there should be a change of focus as “[t]his recent issue in the west has been taking away valuable time and resources from dealing with the big issues we are facing urgently”, referring to the trade in new ivory (Financial Times 2016c).

There are practical steps that should be encouraged. First, the US Fish and Wildlife Service “Final Rule” needs to be revisited; this idea may be received sympathetically by some agency officials, and perhaps the current Administration will be open to a more reasoned approach. Secondly, the conclusions drawn at the Johannesburg CITES Conference need to

be acknowledged. The protection of the African elephant is complex, and it should be appreciated that different solutions are appropriate in different parts of the continent. But overall, action needs to be resolute in enabling the battle to protect endangered elephant herds to continue. At the same time, it should be formally acknowledged that *bona fide*, CITES-compliant “antique ivory” is not a matter for concern. **END**

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