



Photography: Chris Giles



THE PANEL

1. **Stephen Whittaker**, managing director, Fellows
2. **Martin Levy**, H Blairman & Sons
3. **Rebecca Davies**, chief executive, LAPADA
4. **Mark Dodgson**, secretary general, BADA
5. **Andrew Banks**, solicitor, Stone King

6. **Milton Silverman**, solicitor, Streathers
7. **Jane Alexandra**, endangered species protection campaigner
8. **Louise Ravula**, endangered species protection campaigner

Debate hosted by **Noelle McElhatton**, editor, *Antiques Trade Gazette* and **Roland Arkell**, contributing editor, *Antiques Trade Gazette*

# Seeing the elephant in the room:

# both sides of the ivory debate



**The debaters:** Back l-r: Rebecca Davies, Mark Dodgson, Martin Levy, Roland Arkell, Stephen Whittaker, Andrew Banks, Louise Ravula. Front l-r: Frances Allitt (reporter, ATG), Milton Silverman, Noelle McElhatton, Jane Alexandra.

By ATG staff

The magnificent African elephant is under siege. And so too, on the issue of ivory, is the antiques trade.

THE professional dealing and auctioneering community has long held that ivory, as a noble material for art or utility, belongs firmly in the past. The clear message is that the trade has no interest whatsoever in selling modern ivory and believes only in the controlled trade of genuine works of art, made across the millennia.

But when it comes to the court of public opinion, does the antiques trade have something of an image problem on this issue? The fact that campaigners recently gathered outside one of the UK's leading regional auction houses, to protest against the inclusion of over 50 lots of ivory in an Asian art sale, suggests it might.

In the knowledge that it requires an open and sensible discussion to make headway on any topic, the panel ATG assembled to debate this complex and controversial issue included not just industry professionals but also two of the Action for Elephants campaigners who are calling for an ivory ban.

Host Noelle McElhatton, editor of the *Antiques Trade Gazette*, began by asking why they had chosen to participate in the protest outside Woolley & Wallis' Salisbury saleroom in May:

### About the Action for Elephants campaigners

JANE Alexandra and Louise Ravula were invited to take part in ATG's ivory debate after participating in the Action for Elephants protest outside Woolley & Wallis in Salisbury in May.

Alexandra was born and raised in Kenya where, she says, "elephants were part of my garden". In recent years, encouraged by her children, she has become active in a number of conservation groups. Ravula began her involvement with elephant conservation following work in a sanctuary in Thailand.

Both are familiar with antiques. Alexandra lives "in a house full of them" and Ravula's father is a graduate of the Southampton fine art valuation degree course and is an ATG subscriber.



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I don't think we can separate the issues of modern poaching and antique ivory because they are linked

Louise Ravula, campaigner

### Why do elephant campaigners target the antiques industry?

**Louise Ravula:** At the protest in Salisbury we wanted to highlight to as many people as possible the connection between the antiques industry and the killing of elephants in Africa today.

We also wanted to demonstrate that the sale of antique objects fuels a demand for all ivory – creating the impression that it is something that is valuable and desirable.

**Rebecca Davies:** I represent over 500 dealers. All are against the contemporary traffic in raw ivory and absolutely support all the initiatives designed to protect the species. It is important to understand the clear distinction between the legitimate and the illegal trade.

You are using the antiques trade as an area around which to create awareness. But I think it is the wrong kind of awareness.

**Ravula:** I don't think we can separate the two issues because they are linked.

**Milton Silverman:** I would like to hear where the link is. Could you explain the connection between modern poaching and pre-1947 ivory.

**Jane Alexandra:** Research by leading scientific and conservation organisations has established the relationship between old ivory and today's poaching of elephants. The link exists because the current system – that relies on self-certification when it comes to provenance and accurate dating – is open to abuse.

Reports such as the International Fund for Animal Welfare's (IFAW) *Elephants on the High Street* investigation in 2004 – and other more recent documented evidence – do unfortunately show that poached ivory has infiltrated the legal trade.

**Mark Dodgson:** The study completed in 2005 (*The Ivory Markets of Europe* by E Martin and D Stiles) found that 97% of ivory items observed for sale in London were pre-Convention. Less than 3% were thought to be recently-made or new items. It shows that there isn't this

huge illicit market in the UK. Interestingly the report also found that exactly the reverse was true in China – as much as 95% of ivory seen there was new. If we are going to channel energies into something, that is where the ban should be.

**Stephen Whittaker:** Does that mean we are looking at punishing the majority of dealers and auctioneers who are acting honestly and with integrity? The fact that a few are acting inappropriately is not a reason to penalise the other 97%.

**Ravula:** *The Ivory Markets of Europe* said that 97% of ivory items traded in the UK were manufactured before the 1989 EU international ivory trade ban. The figure was not for pre-1947 ivory.

**Jane Alexandra:** We recently had an audience with John Scanlon, secretary general of CITES, to discuss ivory. We know the problem in the UK is not with the honourable auctioneers and dealers who can properly appraise a piece. It lies elsewhere. But there is a lot of illegal

ivory for sale here. And, according to IFAW, we are one of the worst countries in the world for that.

**Silverman:** I have had two recent cases on this subject but none was related to the seizure of modern ivory. The objects were acknowledged as pre-1947 but concerned whether or not the item was 'worked' or not according to the rather high bar of the English legislation. This wasn't the modern ivory which you fear. We are talking about two very different animals, if you excuse the phrase.

**Andrew Banks:** I can't think of a single case I have dealt with where someone has been accused of passing off new as old. One of the reasons those cases aren't coming forward is that the Wildlife Crime Unit has finite resources. There are rogues out there, but in my opinion the unit is not necessarily targeting the right places.

**Martin Levy:** I accept there has to be a connection between modern poaching and the illicit sale of trinkets in Hong Kong.

But by the same logic there is no suggestion that someone who buys a medieval devotional ivory – a window into another way of life – is contributing in any shape or form to the destruction of wildlife.

**Are the rules governing the ivory trade working?**

In the UK, prosecutions under CITES are rare, suggesting the antiques trade is abiding by the rule that only 'worked', pre-1947 ivory objects can be commercially traded.

But are the rules surrounding ivory too complex and have they contributed to the transgressions in



the law? We asked the panel for their opinion on the 'worked item' derogation and also the merits of the 'final rule' of the US law that came into play on July 6 (see ATG No 2247, June 25).

**Ravula:** I recently saw a newspaper advert for a small regional auction house – one that isn't affiliated to any trade body – who were selling a turtle shell without any awareness of CITES.

The auctioneers were upset to hear of their mistake but what if they had been offered modern ivory? I don't think they would have the skills to appraise it.

**Dodgson:** There is a role for more education. It does surprise me that there are cases when dealers and auctioneers don't seem to have fully got the message.

**Banks:** It is unhelpful for dealers that the amount of guidance out there is very limited. For example, if you go online looking for information on the revision to the worked derogation of 2013 you might find an article from ATG, but you won't find what you need from any government website. The focus should not be on people who make honest mistakes.

**Levy:** The evidence, provided by the case studies of those who do the wrong thing and get caught, is that CITES actually works. It is a very good set of rules devised after considerable inter-governmental discussion. It's hard to think what better model there is.

**Alexandra:** What do you think about the US model introduced on July 6?

**Dodgson:** I wouldn't say it was perfect. We are upset about the

“**There is no suggestion that someone who buys a medieval devotional ivory – a window into another way of life – is contributing in any shape or form to the destruction of wildlife**”

Martin Levy

**Antique ivory: the rules**

MOST antiques that include ivory enjoy an exemption from CITES controls known as the 'worked item' derogation. This states that an item shall be exempt from normal sales controls if it was created before March 1947 and has been significantly altered from its natural raw state for jewellery, adornment, art, utility or musical instrument.

CITES provides the example of a snooker ball made in 1900. As it was significantly altered from its original state (a raw tusk) for the purpose of utility many years before the cut-off date, it could be sold within the EU. The snooker ball would still come within the derogation if it had been re-carved, for example to make a walking stick handle, before June 1947. However, if the re-carving had been done after that date, it would not be legal to sell.

In May 2013, significant changes were introduced following new guidance from the European Commission on the interpretation of the 'worked item' derogation.

For tusks or sections of tusks to be considered 'worked' they now need to be fully carved or shaped into a new form such as a paper turner. Even when tusks are polished and permanently mounted as part of a decorative or functional object they no longer qualify as worked.

Under the 'special measures' adopted by the UK, the department of Animal Health's Wildlife Licensing and Registration Service will not issue certificates for any unworked ivory.

**The Wildlife Licensing and Registration Service can be contacted on 0117 372 8774.**



restriction on importing any ivory into the US. But the model does permit the trade in old ivory.

US Fish and Wildlife have said themselves they can't find the link between the trade in antiques and the trade in new ivory.

**Davies:** They are throwing the baby out with the bathwater. Just because law enforcement is not capable of making the distinction between new and old – as they may have difficulties identifying ivory from bone or plastic – doesn't mean that a ban is the solution.

**Levy:** The 'final rule', while allowing the internal movement of ivory, is still incredibly restrictive in terms of documentation. That documentation doesn't necessarily survive.

The final rule is something of a pyrrhic victory – a phrase I use far

too often in relation to ivory.

The 100-year rule is also arbitrary and odd. It excludes Art Deco furniture, much of which is extremely beautiful and important and happens to incorporate ivory. On the more positive side, the authorities have acknowledged that museums need to borrow.

**Roland Arkell:** The exceptions allowed under the 'final rule' are blighted by the issues of licences. But elements of the law – seen in the guidance notes – have been quite well thought out. It accepts, for example, that a professional appraisal is quite adequate when it comes to the dating of an item.

The 'de minimus' rule – while perhaps introducing unnecessary complication – does acknowledge that in many works of art the material is incidental to the whole.

community, dealers, auctioneers and collectors vociferously support conservation, I find a slight lack of equal understanding from the conservationists' side of the argument that works of art also ought to be preserved.

**The issue of dating ivory**

In the context of dating ivory, the oft-posed enquiry 'how old' often assumes a very specific meaning. The dating of works of art – ensuring they were created before March 1947 as the CITES regulations demand – is one that is frequently raised by wildlife campaigners.

But does the conservation community view this problem as ivory, *per se*, or is it the possibility that the new might be confused – by honest error or with more sinister intent – with the genuinely old?

**Alexandra:** It is more the infiltration of new ivory into old and making sure that what dealers and auctioneers are selling is genuine. There are hugely knowledgeable people in the trade but there are those without that knowledge who under current rules can still appraise items. That is the area that needs to be addressed.

**Levy:** Since the Obama directive in March 2014 I have consulted experts in the museum world and in the trade on works of art that happen to include ivory. The universal view was that the authentication of ivory is just not an issue. In paintings there are always questions.

With ivory there isn't a situation where we ask 'is it 17th century or is to 20th century?'. Connoisseurship allows for that knowledge.

**Dodgson:** Not even scientific testing can prove everything but there are dealers who are enormously experienced in handling antique objects and they know from carving and patination that an item is genuinely old. An officer working for the Wildlife Crime Unit might not be able to do that but there are people in the antiques trade who can.

**Whittaker:** It's true the expertise doesn't lie with DEFRA, it lies with the antiques trade and possibly with the auction houses.

**Ravula:** For me it is not a question of date. Every piece of ivory represents a dead elephant.

**Arkell:** Actually, much of the ivory in antiques was sourced from elephants that were already dead.



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**It might be that the antiques trade needs to do more to show its support for the elephants**

Stephen Whittaker

### What can the industry do to ensure its case is heard?

In May, the French minister of the environment Ségolène Royal, seized the moment of a huge ivory burn in Kenya to announce she would personally push for a total ban on ivory sales in France. It's understood too that at the CITES conference in South Africa in September, the US will push for a global ban.

So how can the antiques industry win the hearts and minds of wildlife conservationists and legislators while maintaining the controlled sale of antique ivory? Two suggestions were made as to how – with the addition of red tape – the trade might begin to regain the initiative on the ivory issue.

**Levy:** It is important that at the CITES conference in September, our government goes with the same position it has held for many years – that it strongly supports the ban on illegal ivory while at the same time recognising the importance of works of art as cultural currency.

**Whittaker:** The antiques trade is viewed by a lot of conservationists as villains of the piece. We are handling between us items that are collectively of a very high value. I wonder if a small levy could be placed on the sale of old ivory and the money be placed in the right hands to assist in the protection of living elephants?

**Ravula:** We certainly don't want to be painted as thinking that



everyone in the antiques trade are rogues and villains. That's not the case. But fundraising for elephants by the antiques trade needs careful consideration. I'm sure you can appreciate the potential conflict of an ivory seller donating to an anti-ivory charity, but that isn't to say it shouldn't be done.

**Levy:** I wouldn't want to make the position where those people who were intent on acquiring an ivory work of art had to concede that what they were doing was somewhat questionable, and therefore they had to pay a levy to support something that in my view is completely unconnected.

**Davies:** We should continue to look for solutions but I don't believe this is the right one. It would be taxing something that is quite unrelated.

**Whittaker:** The suggestion was slightly tongue in cheek, but it might be that the antiques trade needs to do more to really show its support for the elephants.

**Arkell:** I am worried about the trinkets at Portobello. But I am also looking for a way to preserve the market for genuine works of art.

Hypothetically, if when selling antique ivory it was necessary to be a member of a *bona fide* trade association or to seek a third-party appraisal from a recognised professional, would that potentially satisfy your concerns?

**Alexandra:** Perhaps that could work. That would certainly be an idea to put forward. Undoubtedly, we should all be working together more.

**Ravula:** For me it would be bigger steps – there actually isn't much time on this issue – but it might be small steps first of all.

I think it's important to stress what is happening elsewhere. We are educating the Chinese consumers, tracking down the poachers and giving them an alternative income.

In the UK it is just the antiques trade which isn't being tackled.

### What can our trade bodies do?

**Dodgson:** Ever since the restrictions on ivory began more than 20 years ago, the trade has always made a point of explaining our situation to DEFRA, to the relevant ministers and officials so that there is an understanding there.

Recently on a meeting to Brussels I got the impression that officials in the EU do understand the case for antique ivory.

**Levy:** The members of our trade bodies must show that CITES is rigorously adhered to, that those rules that are in place are honoured absolutely and offer no defence for anyone who tries to break them. ■

ATG will continue to keep you up to date with ivory's evolving story. In the meantime, please let us know what you think of the opinions expressed in this round table.



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## 1971: A momentous year

If you started your career in art and antiques in 1971, then you share a birthday (but no mid-life crisis) with *Antiques Trade Gazette*.

To celebrate our 45th year of publication, we are collating stories from businesses – dealers, auctioneers, restorers, financiers – that set up back in 1971 and from people who began their career that year. We want to capture your thoughts on what it was like to start out back then and the key milestones along the way to 2016.

You may not be trading any more – no matter. We still want to feature your story (and photographs,

if possible) if your business or art and antiques career began life in 1971.

### So let's hear from the 45s.

Email [noellemcelhatton@atgmedia.com](mailto:noellemcelhatton@atgmedia.com) if you'd like to be interviewed for our 45th anniversary celebration.

RSVP by 12 August.

Those we feature will receive an invitation to our champagne celebration in September which takes place the same week 45 years on from our first issue.