

HISTORY

Part I: Policies of confusion 1960–1978: elephant ivory, rhino horn and hippo teeth

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Abstract

The paper reviews official policies on ivory and its possession in colonial Uganda and Kenya and in the immediate post-colonial period. Treating it as a currency, the Governments asserted a monopoly over it, only allowing ownership and trade under licence. However, in ignorance of its role within indigenous economies, and unable to monopolise a resource as widespread and mobile as elephants, they compromised. By offering cash rewards both Governments solicited the public to collect tusks on their behalf. This was partially successful, but the rewards were so low that they facilitated illegal trade and were an inducement to kill elephants as well as collect tusks from natural mortality. This, in turn, countered conservation policy to preserve elephants.

Résumé

Cet article passe en revue les politiques officielles sur l'ivoire et sa possession dans l'Ouganda et le Kenya coloniaux et dans la période postcoloniale immédiate. Le traitant comme une monnaie, les gouvernements ont affirmé avoir un monopole sur l'ivoire, ne permettant que la propriété et le commerce sous licence. Cependant, ignorant son rôle au sein des économies autochtones et incapables de monopoliser une ressource aussi répandue et mobile que les éléphants, ils ont fait un compromis. En offrant des récompenses en espèces, les deux gouvernements ont demandé au public de récolter des défenses en leur nom. Cela a été partiellement réussi, mais les récompenses étaient si faibles qu'elles ont facilité le commerce illégal et ont été une incitation à tuer les éléphants ainsi qu'à récolter les défenses dues à la mortalité naturelle. Ceci, à son tour, a contrecarré la politique de conservation pour préserver les éléphants.

Historical background

Ivory has been an African and international currency since ancient times. In Africa its possession was widely used as a badge of wealth, power, social privilege, and as a medium for art, adornment and ornament. Parker (1979) noted, *inter alia*, its use among the Zande (Petherick

1869), the Lango (Driberg 1923), the Baganda (Roscoe 1911), the Luba Leya and Mayombe (Leiris and Delange 1967) and the Bamenda (Chilver 1961). Many chiefs or kings customarily claimed one tusk of all elephants killed or found dead, usually the underside one that touched 'his' land (Livingstone 1857; Powell-Cotton 1902). It cannot have come as a surprise



Figure 1. The better to make the point that coins were wealth they were embossed with ivory tusks.

therefore that the colonial powers monopolised ivory from the beginning of their administrations. In 1893 Lord Lugard representing the Imperial British East Africa Company's (IBEAC) rule in Uganda wrote, regarding the Kingdom of Toro:

"I made a treaty with him [King Kasangama of Toro] ... elephant were not to be shot without permission, and were the monopoly of the Company."

When the Imperial British Government replaced the IBEAC, it assumed this monopoly throughout its East African possessions. Until the end of the colonial era in Kenya fines and taxes could even be paid in tusks, reflecting its wide acceptance as currency. When coins were introduced the smaller denominations were symbolically embossed with elephant tusks (fig. 1).

When the Giriama people rebelled against the British in 1913–14, one grievance was the ban on their traditional trade in ivory. Ironically though, tusks were accepted in payment of the punitive communal fines subsequently imposed. Cap badges of the customs officials were embossed with two elephant tusks rampant, symbolising their role as revenue collectors. Later in the 1950s to stress the connection with wealth, two replica elephant tusks were erected as an arch over the main thoroughfare to Mombasa's Kilindini port, the commercial gateway to Kenya and Uganda.

Such symbolic connection with wealth is exemplified, for example, in the tusks in Tanzania's and Botswana's national emblems. The term 'mali'—Swahili for wealth—was commonly used as a synonym for ivory among rural communities in Kenya's coastal region. (fig. 2 and fig. 3).

The official attitude towards ivory was clearly given by Sir Evelyn Baring the Governor at the time, at a meeting of the Galana Game Management

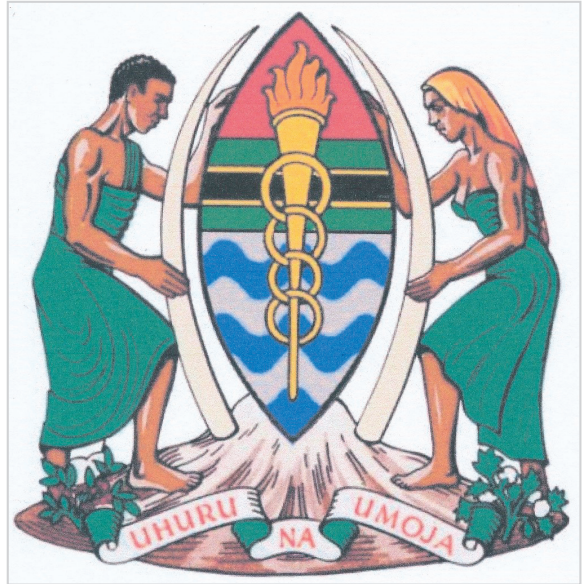


Figure 2. Tanganyika's Coat of Arms: the torch of freedom embraced by a pair of elephant tusks atop Kilimanjaro: symbols of prosperity.



Figure 3. Botswana's Coat of Arms displays an elephant tusk traditional symbol of wealth and history.

Scheme's committee in Malindi in 1960. Chaired by the Provincial Commissioner (PC) and with the Kilifi District Commissioner (DC) present, as the Scheme's manager IP had taken issue over the government allowing the Scheme a quota of elephant, but not allowing it the ivory they yielded. As junior officers were only permitted the platitudes of protocol, the PC was rebuking me, when Sir Evelyn Baring interrupted "Let the young man have his say." He then explained that allowing the Scheme to have the ivory would hypothecate revenue, which the Treasury could not allow. However, he would henceforth ensure that the Treasury made an annual grant equivalent to the value of ivory that the Scheme produced. The Oxford Dictionary defines hypothecate as "*pledge (money) by law to a specific purpose.*" While the grant Sir Evelyn Baring pledged seemed to be just that, the point made is how ivory was seen as money.

In the post-colonial era ivory was used to circumvent restrictions on moving money internationally imposed by Africa's newly independent governments, and for financing rebellion that characterised the post-colonial continent. Tusks with no national identity¹ remained as much an African currency in the late 20th century as they were before the colonial period, and beyond the capacity of conservation's myriad approaches to control in Kenya.

Minting money is normally a protected government monopoly. Yet the ivory "mint" differed in that the 'coins' were produced uncontrollably by living animals and became available wherever elephants died. Unlike static mineral lodes, elephants were mobile and so numerous and widespread (Kingdon 1979) that no government had the manpower to monopolise the mint. Only the public domain had sufficient people to exploit natural mortality (NM—which was widely referred to as 'found' ivory). Acknowledging this, the authorities in Uganda and Kenya sought indirect control by offering rewards for found ivory together with rhino horn and hippo teeth.

It created a conundrum. Embedded as they are in African cultures, if found, elephant tusks are seldom left where they lie. If rewards were high they might have induced people to not only seek found ivory, but also hunt living animals. If too low, the commodities would disappear down illegal channels. Such outlets arose as soon as governments claimed monopolies. They were enhanced by rules like limiting the size of tusks permissible in trade that excluded most from females and immatures (Anon. 1900). Immutable mortality made it available to anyone happening upon female and juvenile tusks found, and the law made illegal channels the only outlets for it.

Compounding this, rewards for found ivory were around 10% of prevailing market values. To counter the criticism that this induced poaching, they were called 'portage fees'. Rural colonial East Africa had become covered by a network of usually poor Asian traders, who scabbled to make a living. With the 'portage' at only 10% of the market value such merchants only needed to double it to get ivory at 80% below market value. With their ethnic and cultural connections to long established ivory dealers on the coasts, disposing of illicit tusks was easy.

The Wild Animals Protection Ordinance #18 of 1951 illustrates the regulatory system that had evolved. An approved hunter could take out two elephant licences annually, valid for one year, and either keep or sell the tusks of those shot. To keep them the hunting licence was replaced by a Permit to Possess. To sell them it was converted to a Sale Permit valid indefinitely. A private person buying such ivory then had the Sale Permit replaced by a Permit to Possess. To export such tusks (as overseas safari clients wanted to) needed an Export Permit. To buy and sell ivory commercially required a Dealer's Permit. Dealers were entitled to process tusks—dividing them into separate parts. Technically each part called for a separate identification at which point keeping track of one tusk into any number of parts the system became fundamentally inoperable (Parker 2004). No one was legally entitled to possess tusks without one of the permits listed. Yet despite this, people finding tusks were rewarded 'portage fees' for delivering them to the Government. This unavoidably involved a period of temporary possession that might be weeks between finding and delivering. During that period the finder could be charged with unlawful possession. With a process of numerous permits in effect and provision by

¹While here and there the facilities exist to describe DNA, the base to give it a national identity does not yet exist—other perhaps than in small areas, thus it is not yet a practical law enforcement tool.

different departments legal possession was not straightforward.

As wryly observed by Chief Game Warden Woosnam in 1912 (Anon. 1912):

“All we have achieved with the ivory laws is created the illegal ivory trade.”

With hindsight it is easy to point out weaknesses. Claiming a monopoly over a commodity that was almost impossible to monopolise; banning possession of unlicensed elephant tusks yet offering rewards to find them and thus at least temporarily be in possession of such tusks; making rules that forbade selling immature and female tusks, yet paying rewards for surrendering such ivory to government all created confusion. It was compounded immensely by ignorance of the social and economic role ivory played in indigenous economies. Could the confusion have been avoided?

If rewards been closer to ivory's market value, the incentive to dispose of tusks through illegal channels would have been reduced, but the cost would have been less revenue for government. Recovering NM unavoidably involved a network between field and auction, and it may have caused less hostility if government had placed itself within traditional systems or used the traders as a collection network. Such steps would loosen controls, the ultimate stage of which would have been to allow free trade in ivory. This would have been politically unacceptable and contravene conservationism's demands. Yet speculating on what might have been seems somewhat pointless if, as noted by Parker and Graham (1989 I & II) the relationship between people and elephants is dictated by competition for space. Using Kingdon's (1979) data they illustrated East African (Kenya, Uganda and Tanzania) elephant range had contracted by >60% between 1925 and 1975 with rising human density being the proximate influence. This process will have continued over the intervening years since 1975.

Setting aside speculation on what might have been, Parker (1979) pointed out that the difference between customs records of East African ivory exports and those of importing countries, showed

that the illegal trade was substantially greater than the legal. Yet whatever its flaws, the reward system delivered a considerable flow of tusks, rhino horns and hippo teeth into government hands. At issue here is why *any* was sold to government if the illegal buyers paid better prices? The main reason, at least where the Wata were concerned, but probably for Akamba, Mijikenda and Orma of the same region, was to get money to pay tax. All men had to pay an annual tax (kodi). Living among elephants without paid employment, with no livestock or crops to sell, ivory was an obvious source of kodi money. How much of the NM or unlawfully hunted ivory went towards paying kodi and how much was sold illicitly again remains moot.

That NM ivory was augmented by elephants killed unlawfully, was widely known and openly confirmed by the Wata of eastern Kenya (Parker 2017). While the ratio of hunted to NM is unknown, these Wata claimed emphatically that the latter was the greater source.

Ivory also arrived in government hands from animals shot defending property both by the Game Department and landowners themselves (referred to as problem animal control, PAC), and from confiscations. Periodically government ivory would be auctioned in the Ivory Room in Mombasa. Private individuals who had been judged competent by the Game Department, or who were accompanied by someone who had, were entitled to shoot two elephants annually. To export such tusks (as overseas safari clients wanted to) needed a Game Department Export Permit. To sell them locally needed a Sale Permit which entitled holders to sell their tusks to the holder of a Dealer's Permit. Thus ivory obtained from elephant shot on licence usually by-passed the Ivory Room moving directly to authorised ivory dealers. However, for a fee it could be disposed of through the auctions. This seldom happened, but the dealers themselves could and did dispose of some ivory—mainly cut pieces—in this way.

A similar Ivory Room existed in Dar-es-Salaam, Tanganyika (as it then was). In the Ivory Rooms, which until 1956 were run by customs authorities, tusks were graded and divided into lots of like size and quality. In addition to Kenyan ivory, from before the Second World War until 1967, Mombasa had auctioned all Uganda's official ivory on commission, as well as quantities from what was then the eastern Belgian Congo and smaller, less regular quantities from other nearby countries (Parker 1970).

The Ivory Rooms coordinated four auctions a

year: Mombasa's in June and November, Dar-es-Salaam's in March and October. (This co-ordination eroded after the East Africa states gained independence evolving separate national policies.) In 1956 responsibility for the Ivory Rooms was transferred from Customs to the respective Game Department, the move rationalised by claiming that as these were parts/derivatives of wild animals, their disposal should fall under the responsibility of the Game Department. It reflected the belief that the departments had law-enforcement capacities that in fact did not exist (Parker 2004) and ignoring the reality that revenue collection is what customs departments are specialised to do.

The principal merchants with Dealers Permits were based in Mombasa. Mostly, but not entirely Muslims from the Indian sub-continent, they nonetheless acted as a close-knit cartel when it came to the ivory auctions. Lacking the skills needed to grade ivory, the government relied on these traders to do this or guide its officers. This enabled collusion to fix prices and allocate lots. Buyers from overseas were persuaded to appoint local merchants as their agents. Those who chose to bid independently would be outbid by a cartel member, and the cost of doing so shared between cartel members. A similar situation existed in the big London auctions (Ivory authority T. Friedlein pers. comm. 2019). Within their own communities the ivory buyers were perceived as honourable with strong social commitments. For example, in the 1930s the Mombasa cartel donated generously to the cost of the port's Asian Hospital dedicated to their community (Journalist and historian E. Rodwell pers. comm. 2000's).

Seemingly anomalous was the inclusion in the auctions of rotten ivory and cut tusk tips and hollows for which $\pm 30\%$ of the highest prices for sound tusks was paid. Seemingly no ivory was worthless. Yet it conflicts with the illegal buyers' demand that sound points and hollows be left in the field as valueless (a point was the anterior end of a tusk where diameter became less than the first three fingers held parallel, a hollow was that point where the same measure could not be pushed further into the pulp cavity). In the 1960s scuba divers seeking treasure on the floor of Old Mombasa Harbour found many

pieces of ivory (sources C. Plough, J Antoni, A. Jennings c. 1960, M. Ismail 2020—all these were in pers. comms.). The received speculation was that it had been contraband thrown overboard when smugglers loading dhows were frightened by police.

An altogether different but perhaps obvious explanation, that might account for cut pieces and rotten ivory being bought at the auctions yet rejected elsewhere or thrown overboard may relate to acquiring permits. Auctioned rotten ivory and cut pieces identified only by weight could be thrown away once the permits were to hand, and replaced with sound, but until then illegal ivory.

Auctioned ivory was offered in graded lots of like size, grain, curvature (straighter = better), volume of hollow, dimensions of the core line and weights. Whole tusks were graded under headings that varied internationally (Parker 1979). The Mombasa auctions adopted an Indian system with the following classes:-

1. *Vilaiti* (or *Vilayati*) for all male tusks over 40 lbs (18.1 kg) and age of ± 30 or more years (Parker 1979). The term was a hang-over from Mumbai's dominance in ivory trading and derives from the Hindi word for 'foreigner'—particularly the British—as traditionally they wanted large 'prime' tusks. This was before London gained dominance and took all tusks.
2. *Cutchi* (Bangle Ivory) for all male tusks between 20 lbs (9.1 kg) and 40 lbs (18.1 kg), generally between the ages of 22–30 years. Tusks in this weight range were most suitable for satisfying India's demand for marriage bangles. The Princely State of Cutch (now District of Cutch) was the centre of the bangle industry and its name adopted for the tusks most sought after there.
3. *Fankda* for all male tusks between 10 lbs (4.9 kg) and 20 lbs (9.1 kg) between the ages of 15 and 26 years. This term's etymology is uncertain but it may refer to the large pulp hollows relative to the tusk's body of dentine that features during rapid male growth in this phase of life.
4. *Calasia* (or ball ivory) for female tusks of more than 10 lbs (4.5 kg) and centre diameters of between 2 inches (5.1 cm) and 3 inches (13.0 cms) mostly from animals over 27 years old. A major demand for such tusks was for making billiard balls. Etymology is uncertain.
5. *Maksub* the term for both male and female tusks of between 5 lb (2.3 kg) and 10 lbs (4.5 kg). In

- European terms these were divided into hollow or solid *scrivelloes*, respectively denoting tusks produced by males (hollow) between the ages of 8.5 and 15 years, and females (solid) between the ages of 16.5 and 27 years.
6. *Dandia* being tusks of both sexes under 5 lb (2.3 kg) produced by males under 8.5 and females of less than 16.5 years. They were referred to by some traders as ‘sticks’ relating to low value. Again, in London male tusks were referred to as hollow and female as solid. Such distinctions were recognised in Mombasa, but not referred to in the auction catalogues.
 7. *Chinai* was given in the Mombasa catalogues as defective ivory. A better term would have been chunks of ivory much of which was sound. Elephants of both sexes occasionally break their tusks. The name arose because China was traditionally a major market for broken pieces.

8. Rotten. The term is self explanatory. Tusks that were weathered and deeply cracked, with chalky surfaces and outer layers peeling off, but retaining their basic tusk shape.
9. Cut pieces: parts of tusks in one of their three divisions: tips or points, centres and hollows or butts. These will have been the products of processing ivory in Mombasa before exporting it, though some will have come from the field as old discarded points and hollows, and for which both the national parks and government still paid rewards.

These classifications, printed on the back of auction catalogues, were convenient, arbitrary and difficult for the uninitiated to gainsay. Some *Cutchi* would meet *Vilaiti* demands. Some of the heavier *Fankda* would serve in the *Cutchi* range. Female *Maksub* tusks at the upper end of the weight range would qualify as *Calasia*. Some smaller hollow male tusks would be treated as *Dandia*. The term defective for *Chinai* was misleading, because all tusks with minor blemishes

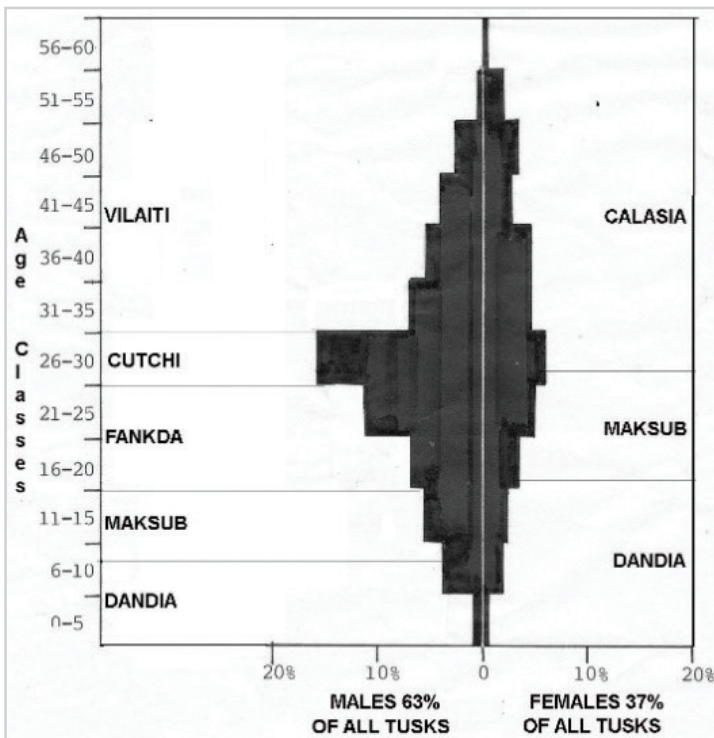


Figure 4. The expectations of ivory classes in a pooled wild population unmodified by recent human hunting. Data from 1,862 males and 2,733 females from five populations culled randomly. Parker (1979 Figure 42).

but otherwise sound were listed as defective. A better description would be chunks of sound ivory plus some severely broken tusks.

The ivory trade classified tusks from savannah elephant (*L. africana*) as white and/or soft, and those of the forest species (*L. a. cyclotis*) yellow and/or hard. Hybrid ivory occurred in a broad band around the equatorial forest zone (Parker 1979). In the Mombasa auctions *L. a. cyclotis* tusks were graded as above, but prefixed or suffixed with the word *Gandai* (etymology is uncertain but presumably pejorative—i.e. of lesser quality). The relationships between the ivory grades and both age and sex are illustrated in fig 4.

All ivory, rhino horn and hippo teeth auctioned between November 1960 and June 1976 were under headings Kenya Government (KG), Galana Game Management Scheme (GGMS), Kenya National Parks (KNP), Uganda Government (UG) and Uganda National Parks (UNP).

The flow of ivory into government hands that had prevailed across the colonial years was compromised in 1964 by President Kenyatta. Within a year of the country's independence he reverted to a system more in keeping with old Africa's traditions: that disposing of ivory was a chief's prerogative. (Just as it should be noted medieval European kings assumed a royal prerogative to all "game"/sport hunting—Graham 1973.) He allowed ivory revenue to accrue to people he favoured to 'collect' it, taking the consequent political good will as his profit. This did not come about in a single command, but gradually. Initially Kenyatta decreed that several ex-Mau Mau guerrillas be given 'collectors permits' to recover found ivory that, ostensibly, they had hidden in forests on Mt Kenya and the Aberdare Range during their insurrection. However, they were soon operating in places where the Mau Mau could never have been. Expatriate chief game wardens tried to control this, but when replaced by a Kenyan in 1968 such resistance ceased.

From then on the number of 'collectors permits' burgeoned and holders operated openly wherever there were elephants and with no pretence of Mau Mau connections. People took what they found or hunted directly to these permit holders (cutting out many of the until

then illicit Asian buyers) who either exported the tusks or sold them on to those higher up the political hierarchy.

Starting in December 1965 the Ivory Room also became a curio bazaar auctioning a range of wildlife-derived items putatively taken during 'game control' or seized from those holding them illegally. This stopped in 1969 when the department found it more convenient to sell directly into the burgeoning Nairobi curio trade.

A further development was that the Chief Game Warden decided to by-pass the Ivory Room and sell ivory, rhino horn and hippo teeth directly from his headquarters in Nairobi (Parker 2004). This was seen both locally and internationally as illegal, but technically was not. Under the inherited colonial law (Kenya's Wild Animals Protection Ordinance #18 of 1951) a Chief Game Warden not only had complete discretion to dispose of any government trophy as he saw fit by issuing Chief Game Warden's Permits (CGWP). He was also entitled to appoint honorary game wardens and delegate any or all of his powers including the issuance of CGWPs to subordinates and honorary game wardens. The 'collectors permits' that appeared under President Kenyatta were legitimised as CGWPs and what followed with wildlife trophies generally was technically **not** illegal, though not of course within the spirit of the law when promulgated.

In a late colonial era development the Game Department wished to extend the offtake of elephants shot on licence from the savannahs into the montane forests. As forest hunting was more difficult and less popular with hunters, forest elephant licences were offered at UKP25 instead of the gazetted UKP75 and UKP100 that the first and second annual elephant licences cost. Normally, licence fees were legally promulgated in the Government Gazette. Instead of doing this where forest elephants were concerned as a legal procedure, permission to hunt them was given via CGWPs where the Chief Game Warden could set whatever price, if any, he liked. Although not done with criminal intent this established a model for what happened afterwards on a grand scale. Public outcry, through both local and international media embarrassed government sufficiently to ban all trade in wildlife products from 1978, following Kenya's hunting ban which came into effect in 1977.

The last auction held in the Mombasa Ivory Room was in 1978. No raw ivory, rhino horn or hippo teeth were on offer. Instead, over 100,000 items

were put up for sale that included thousands of raw and tanned skins and artefacts made from wild animal parts. Presumably most had been surrendered by traders and curio dealers after it became unlawful to sell them two years earlier. They included 22,461 crafted ivory items, most of which had been made in Kenya; evidence that the country had been developing its own crafting industry.

In conclusion, from the start the colonial government recognised raw ivory as a currency and tried to monopolise it together with rhino horn, hippo teeth and game/sport hunting trophies generally. Physically unable to acquire them itself, it offered rewards to the public to do so on its behalf. While this generated some revenue the low rewards encouraged a parallel and larger black market. In Kenya the system eroded rapidly after independence when by presidential command, favoured individuals were authorised to acquire and market ivory, the illegal killing of pachyderms burgeoned. Any ivory that still came into government hands was progressively weaned away from the Mombasa Ivory Room auctions and disposed of directly by the Game Department. By the late 1960s where before ivory could only exit Africa through its sea ports, the introduction of air cargo greatly eased the covert disposal of ivory out of all African capitals.

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