

RESULTS ARE OFTEN IN THE EYES OF THE BEHOLDER

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A decision of the American Second Court of Appeals to overturn a New York state ivory law has evoked divided opinion as to its implications. Sustainable conservation advocates cheered the Court's conclusion that display and advertising limits on the domestic sale of ivory and rhino horn are "unconstitutional."

The Court invalidated a New York law that restricted ivory and rhino horn sales by antique dealers, collectors and individuals, arguing that it unfairly limited their free speech right to communicate with potential buyers. The result of the case is that ivory objects can go back on display, be advertised, and be legally sold in the state of New York.

Spokespeople for animal rights organizations — many of which brought the original lawsuit and defended the lower court's decision to uphold the law — saw the results differently. These groups ignored the first amendment findings and cheered the fact that the Appellate Court did not find that *Federal* law governing the trade and sale of the products of endangered species — including elephants and rhinoceros — preempted the right of states to issue tougher regulations on ivory sales as well.

States could, in fact, continue to prohibit the sale of the products of endangered species and some 13 have. But 37 have not and the sale of different types of ivory, rhino and other products are still legal in varying degrees in these jurisdictions.

So where are we in protecting elephants, rhinos and other endangered wildlife as a result of this latest court decision? I think we are marginally better off in the marketplace but hampered by confusion over what products are legal to sell and what aren't. CITES — the Convention on International Trade in Endangered Species — is still marching to the drummers from the animal rights organization.

Why not? These organizations have long told Western liberals that the end of elephants is nigh, that 96 elephants are dying *per day*, and soon there will be none left in the wild. These groups, of course, conveniently fail to mention that these statistics may have been valid estimates in 1996 but are not real numbers nearly 30 years later and certainly not for every country in Africa.

In addition, these groups never reveal that they came to this number in part by some of the most questionable statistical methods imaginable, including reliance on estimates made of carcasses — some of which might not have been elephants — seen from a plane flying thousands of meters overhead at 200+ kilometers an hour. How they determined that each of these deaths were at the hands of poachers has never been revealed. Now one of the most prolific organizations to raise funds based on these questionable statistics — the Elephant Protection Initiative — has ignored its name and just switched its concentration from "helping" elephants to "saving" turtles.

Most troubling to those in the sustainable conservation camp is the fact that the animal rights groups seldom if ever deal with the significant role that *old age* and *climate change* play in the reduction of herds. Why not, again? Because good news does not draw donations in the value and amounts that bad news and imminent disaster produce. Raising as much as \$600

million a year takes a lot of horror stories and the groups that live comfortably from these donations are not about to give one up for the sake of truth.

As those of us who have long argued that the status of endangered animals and plants differ from place to place — that while elephants may need protection in the Ivory Coast, they don't need protection in South Africa, Botswana, or Zimbabwe — animal rights organizations seem unwilling to accept that fact.