The returned pieces of Koh Ker to the Kingdom of Cambodia

By Philippe Delanghe, Program Specialist, Head of Culture Unit, UNESCO Phnom Penh Office
Presentation Outline

I. Previous returns of Khmer cultural objects

II. Return process of Koh Ker pieces

1. Historical and cultural aspect

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   a. Colonial laws (Under French Protectorate)
   b. Cambodian laws after French Protectorate
   c. Related international laws
I. Previous returns of Khmer cultural objects

- 04 December 1996: Sotheby’s returned the Head of Brahma (9th Century) to Cambodia after several times of negotiation (Item DCA 3489)
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- 17 March 1997: Mr. ZIMMERMAN, Representative of Metropolitan Museum of Art returned the 10th century head of the Brahmanic god Shiva and the Head of Male God from Angkor to Cambodia, registered in Looting in Angkor: One hundred missing objects – Cent Objets disparus - Pillage à Angkor (Items DCA 5729 and 5602).
I. Previous returns of Khmer cultural objects

- March 1997: Cambodia received a body statue of a female God from Doris Wiener Gallery in New York, USA. (Item DCA 7081).
I. Previous returns of Khmer cultural objects

- 26 April 2002: The Honolulu Academy of Arts, USA, returned two statute Heads in sand stone, registered in Looting in Angkor: One hundred missing objects – Cent Objets disparus - Pillage à Angkor (Items DCA 1665 and 5499).
I. Previous returns of Khmer cultural objects

- April 2009: The Former Prime Minister of Thailand, Mr. Abhisit Vejjajiva returned 07 pieces to Samdech Hun Sen, Prime Minister of Cambodia.
II. Return process of Koh Ker pieces

Duryodhana  Bhima  Sahadeva  Nakula  Balarama
Location of the Prasat Chen in the Koh Ker Site

- Phnom Penh to Koh Ker: 250 km
- Siem Reap to Koh Ker: 87 km
- Koh Ker to Cambodian-Thai border: 63 km
Prasat Chen Temple in Koh Ker Site
The wall damaged in Prasat Chen Temple
Pedestals of the stolen statues
Diagramme of the statue ensemble
Statues of seated figures cut from their pedestals, unknown private collections (cf. *infra*). Dimensions, stylistic and iconographical features fit in with the pedestals of Prasat Chen as much as possible.
Statues of kneeling figures cut from their pedestals, Metropolitan Museum of New York and Angkor Conservation Depot (cf. infra). Breakage profiles, dimensions, stylistic and iconographical features fit in with the pedestals of Prasat Chen as much as possible.
The statue ensemble
Battle scene on bas-relief

Source: Banteay Srey Temple
The auction sale of Duryodhana

Sotheby’s
Press Release New York  For Immediate Release

New York | +1 212 606 7126 | Lauren Gioia | Lauren_Gioia@Sothebys.com |
Dan Abernethy | Dan_Abernethy@Sothebys.com |

Indian & Southeast Asian Works of Art At Sotheby’s New York
Auction: 24 March 2011
Exhibition Opens: 18 March

Sotheby’s Indian & Southeast Asian Works of Art sale will be led by a spectacular 10th century Khmer Koh Ker period Athlete from a European private collection (est. $2/3 million). Acquired by the original owner over 40 years ago, the figure is mate to the Koh Ker athlete at the Norton Simon Museum in Pasadena that is almost identical in posture and physical appearance. The sale also includes early South and Southeast Asian stone and bronze sculpture, Indian miniature painting, Tibetan and Himalayan bronzes, the famous Pearl Canopy of Baroda, Raj-era silver and fine ivory works. Overall the 112 lot auction is estimated to fetch $8.2/12.2 million.
Duryodhana’s Pedestal

Broken foot on the pedestal of Duryodhana (Front) left in the ground of Preah Chor, Koh Ker Temple (29 April 2012 - right before the excavation)

The pedestal of Duryodhana unearthed from the ground by a group of experts and workers to prevent further damage to the sculpture (29 April 2012)
Assembled statue of Duryodhana with his broken feet on the pedestal unearthed from the ground of Prasat Chen, Koh Ker Temple

Duryodhana
Sotheby’s, New York
The pedestal of Bhima unearthed from the ground by a group of experts and workers to prevent further damage to the sculpture (29 April 2012)

Broken feet on the pedestal of Bhima left in the ground of Prasat Chen, Koh Ker Temple
Assembled statue of Bhima with his broken feet on the pedestal unearthed from the ground of Prasat Chen, Koh Ker Temple

Bhima
Norton Simon Museum, California
Pandava Brothers (Metropolitan Museum of Art, New York)

Balarama (Christie’s, New York)
Handover Ceremony in Phnom Penh
16 March 2013
Transfer Ceremony in New York City
07 May 2014
Statues of Duryodhana, Bhima and Balarama
Mr. Martin Wilson, Representative of Christie’s

Mr. Walter W Timoshuk
Director of Norton Simon Museum
H.E. Mr. Jeff Daigle  
Chargé d’Affaires, US Embassy in Cambodia
II. Return process of Koh Ker pieces

• 24 March 2011 : Sotheby’s was planning to put the statue of Duryodhana on auction from 2 to 3 million USD.
• 24 March 2011 : The Royal Government of Cambodia, through the Cambodian National Commission for UNESCO, sent to Sotheby’s a letter to stop the auction of Duryodhana, which was stolen and to return it back to Cambodia.
II. Return process of Koh Ker pieces

• 22 March 2012 : H.E. Dr. Sok An, Deputy Prime Minister, sent a letter to Mr. Jeff Daigle, Chargé d’Affaires of US Embassy in Cambodia to seize the statue and to return it back to Cambodia.

• 04 April 2012 : The authority of New York city issued an order to take the statue of Duryodhana away from the auction, neither transfer it to another location.

• 26 February 2013 : the prosecutor of New York city paid a visit in Koh Ker Site to collect further evidence.
II. Return process of Koh Ker pieces

• 06 December 2013: Sotheby’s terminated the process with the court and accepted to return the statue of Duryodhana back to Cambodia.

• 12 December 2013: Ms. Sharon Cohen Levin, representative of the New York city prosecution and the Sotheby’s lawyers signed an agreement to return the statue of Duryodhana back to Cambodia.

• 29 May 2014: The statue of Duryodhana arrived at the international airport in Phnom Penh.

• 03 June 2014: Handover ceremony of the statues of Duryodhana, Bhima and Balarama, presided over by H.E. Dr. Sok An, Deputy Prime Minister of Cambodia.
1. Historical and cultural aspect

- The temples in Koh Ker site were built under the reign of the King **Jayavarman IV** between 921 and 941.
- Nowadays, the Koh Ker temple is located in Koh Ker village, Sra Yorng Commune, Kulen District, Preah Vihear Province.
- In 921, the King **Jayavarman IV** went to an area called Chok Koki, located around 120 km from Angkor City.
- In Koh Ker, the King built many temples and other infrastructures for the benefits of the religion and society.
- The King built a temple with the shape of pyramid with 35 m high, which is a unique architecture in Khmer art and architecture history.
- According to the manuscripts on stone, the King was a good warier and a big winner of battles.
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1. Historical and cultural aspect

- The King **Jayavarman IV** died in 941.
- The following king returned back to Angkor city.
- Several generations later, Koh Ker had been repaired and had become sacred place as we can see evidence on statues and architecture.

**Koh Ker site after the civil war**

- 1970-1998: Koh Ker site was occupied by Khmer Rouge. The site was looted and battles ground. Then, the site was seriously damaged.
- 1998: the Ministry of Culture and Fine Arts in close collaboration with UNESCO and other Development Partners established the safeguarding and protection plans of the temples located in Preah Vihear Province.
1. Historical and cultural aspect

- 2003: A private company repaired the road around 90 km to Koh Ker and transformed this area in a touristic site.
- 2004: The Koh Ker site was protected by the Royal Decree NS/RTK/0504/070 dated 05 May 2004.
- 2005: The Koh Ker site was put into the responsibility of National APSARA Authority in the Royal Decree NS/RTK/0705/323 dated 21 July 2005.
2. Legal aspect in Cambodia
   a. Colonial laws (Under French Protectorate)
   b. Cambodian laws after French Protectorate
   c. Related international laws
a. Colonial laws (Under French Protectorate)

- Cambodian-French Convention on 17 June 1884 on the relationship of the two countries.

  **Art. 9:** Le sol du royaume, jusqu’à ce jour, propriété exclusive de la couronne, cessa d’être inaliénable. Il sera procédé par les autorités françaises et cambodgiennes à la constitution de la propriété au Cambodge[...].

- Decision on 28 October 1884 on the property regime in Cambodia.

  **Art. 1:** Le territoire du Cambodge, jusqu’à ce jour propriété exclusive de la Couronne, est déclaré propriété de l’État.
a. Colonial laws (Under French Protectorate)

- Decree on 09 March 1900 on the protection of the sites and historical, artistic objects in Indochina.

  **Art. 17**: La propriété des objets d’art ou d’archéologie, édifices, bas-reliefs, statues, médailles, vases, colonnes, inscriptions, qui pourraient exister sur ou dans le sol des immeubles faisant partie du domaine national en Indo-Chine ou concédés par le Gouvernement à des particuliers, est réservée au domaine.

- Criminal code in 1924, 1934 and 1956.

  **Art. 394**: Les monuments et pièces archéologiques ou historiques classés font partie du patrimoine de l’État.
a. Colonial laws (Under French Protectorate)

- Decree dated on 16 May 1925 on the zoning of the historic sites in Indochina.

Art. 1: Les immeubles et objets mobiliers divers situés dans les limites territoriales de l’Union indochinoise, tel qu’ils sont énumérés aux tableaux annexés au présent arrêté, sont classés parmi les monuments et objets historiques de l’Indochine française. (Résidence Kompong Svay, numéro 256 Koh Ker, nombreux sanctuaires et inscriptions).
<table>
<thead>
<tr>
<th>NUMÉROS</th>
<th>PROVINCE</th>
<th>NOM DU MONUMENT</th>
<th>DÉSIGNATION</th>
<th>RÉFÉRENCES</th>
</tr>
</thead>
<tbody>
<tr>
<td>256</td>
<td></td>
<td>Koh Ker.</td>
<td>Nombreux sanctuaires et inscriptions.</td>
<td>I, nos 265-283;</td>
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<td></td>
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<td>Cm. K. 182-189.</td>
</tr>
</tbody>
</table>
REPUBLIQUE KHMER

LISTE GENERALE DES MONUMENTS HISTORIQUES KHMERS 1972
a. Colonial laws (Under French Protectorate)

- Decree dated on 11 July 1925 related to the zoning and the prospection of the historic sites of the colonized countries.

\textbf{Art. 17}: [...] Tout objet mobilier appartenant à un immeuble classé est considéré comme classé

\textbf{Art. 18}: Tous les objets mobiliers classés sont imprescriptibles[...] .

a. Colonial laws (Under French Protectorate)

- Decree dated on 11 July 1925 related to the zoning and the prospection of the historic sites of the colonized countries.

Art. 22: Les objets d’art, statues, sculptures, inscriptions en pierre, bois ou métal, d’origine indochinoise et antérieur au XIX siècle, ne pourront être exportés hors de l’Indochine française que s’ils sont accompagnés d’un certificat de non classement délivré par le Directeur de l’Ecole française de l’Extrême-Orient ou par ses délégués spécialement désignés à cet effet.

Art. 1 : Les objets accompagnés d'un certificat de non classement ... ne pourront être exportés hors de l'Indochine française que par les seuls ports de Haiphong, Tourane, Quinhon, Saigon et Réam.
a. Colonial laws (Under French Protectorate)

• Agreement on Culture dated on 08 November 1949:

**Art. 38**: Sont transférées au Gouvernement Royal du Cambodge les attributions et prérogatives en matière de protection, de classement et de conservation des monuments historiques sur le territoire du Cambodge, telles qu’*elles étaient exercées par les autorités françaises* [...].
b. Cambodian laws after French Protectorate

- Decree dated in August 1965 related to the zoning and the prospection of the historic sites similar to the Decree dated on 11 July 1925 related to the zoning and the prospection of the historic sites of the colonized countries

- Law dated on 07 March 1968 on the traffic illicit

Art. 1 : Quiconque s’empare frauduleusement d’un objet faisant partie soit de monuments et pièces archéologiques ou historiques, soit du patrimoine artistique national est puni de la peine criminelle du premier degré.
Art. 2: La peine criminelle du deuxième degré est applicable si l’infraction visée à l’article précédent est commise avec le concours au moins trois des circonstances suivantes : 1. de nuit, 2. en réunion avec une ou plusieurs personnes, 3. avec port d’armes, 4. à force ouverte ou de vive force, 5. avec usage de tout moyen de transport en vue de faciliter l’entreprise ou de favoriser la fuite.

- **Law on Land Management 1992**

Art. 4: The mineral, cultural and historical patrimonies underground, on the ground, at the bottom and under the bottom of the sea are the *property of State*.

- **Criminal code dated on 10 September 1992**

Art. 44: Any person who steals or attempts to steal cultural property belonging to the State or to natural or artificial persons, which is part of the Cambodian national heritage, shall be liable to a term of imprisonment of six month to ten years.
• Law dated on 25 January 1996 on the protection of Cultural Heritage

Art. 2: The national cultural heritage comprises cultural property created or discovered on national territory.

Art. 20: Any classified cultural property of public ownership or belonging to public legal entities is *inalienable*.

Art. 39: Moveable cultural property found by chance is public property.

Art. 44: Immoveable and moveable cultural property discovered by scientific institutions shall be the *property of the State*.
c. Related international laws


Art. 2: The States Parties to this Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of the countries of origin of such property and that international co-operation constitutes one of the most efficient means of protecting each country's cultural property against all the dangers resulting therefrom.

Art. 3: The import, export or transfer of ownership of cultural property effected contrary to the provisions adopted under this Convention by the States Parties thereto, shall be illicit.

Art. 4: The States Parties recognize that for the purpose of the Convention property which belongs to the following categories forms part of the cultural heritage of each State: [...] Cultural property found within the national territory[...].
Art. 6: The States Parties undertake to introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorized [...].

Art. 7: The States Parties to this Convention undertake: (a) to take the necessary measures, consistent with national legislation, to prevent museums and similar institutions within their territories from acquiring cultural property originating in another State Party which has been illegally exported after entry into force of this Convention, in the States concerned [...].

b.(ii) at the request of the State Party of origin, to take appropriate steps to recover and return any such cultural property imported after the entry into force of this Convention in both States concerned, provided, however, that the requesting State shall pay just compensation to an innocent purchaser or to a person who has valid title to that property. Requests for recovery and return shall be made through diplomatic offices.
• MOU between the Kingdom of Cambodia and the United States of America on the restriction of Khmer antiquity import.

**Art. 1 A**: The government of the United States of America... shall restrict the importation into the United States of certain categories of Khmer archaeological material, identified on a list to be promulgated by the United States Government....

**Art. 1 B**: The Government of the United States of America shall offer for return to the Government of the Kingdom of Cambodia....
Thank you!