

## Supply and demand: exposing the illicit trade in Cambodian antiquities through a study of Sotheby's auction house

Tess Davis

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**Abstract** Looters are reducing countless ancient sites to rubble in their search for buried treasures to sell on the international market. The trafficking of these and other stolen cultural objects has developed into a criminal industry that spans the globe. For numerous reasons, the small Southeast Asian nation of Cambodia presents an opportunity to ground this illicit trade in reality. This paper supplements previous studies that have detailed the pillaging of the country's archaeological sites, and aims to better comprehend the trafficking of its artifacts, through an investigation of their final destination: the international art market. Of course, the global market for Cambodian art is wide, but Sotheby's Auction House provides an excellent sample. For over 20 years, its Department of Indian and Southeast Asian Art in New York City has held regular sales of Cambodian antiquities, which have been well published in print catalogues and on the web. These records indicate that Sotheby's has placed 377 Khmer pieces on the block since 1988—when those auctions began—and 2010. An analysis of these sales presents two major findings. Seventy-one percent of the antiquities had no published provenance, or ownership history, meaning they could not be traced to previous collections, exhibitions, sales, or publications. Most of the provenances were weak, such as anonymous private collections, or even prior Sotheby's sales. None established that any of the artifacts had entered the market legally, that is, that they initially came from archaeological excavations, colonial collections, or the Cambodian state and its institutions. While these statistics are alarming, in and of themselves, fluctuations in the sale of the unprovenanced pieces can also be linked to events that would affect the number of looted antiquities exiting Cambodia and entering the United States. This correlation suggests an illegal origin for much of the Khmer material put on the auction block by Sotheby's.

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T. Davis (✉)

Lawyers' Committee for Cultural Heritage Preservation, 542 Huntington Road, Athens, GA 30606, USA

e-mail: [director@culturalheritagelaw.org](mailto:director@culturalheritagelaw.org)

## Introduction

Archaeology is a priceless source of knowledge, but to some dealers and collectors of antiquities, it is valued only as a source of capital.<sup>1</sup> This attitude has created a commercial demand for artifacts too great to be met by the existing supply. As a result, looters are reducing countless ancient sites to rubble in their search for buried treasures to sell on the international market.<sup>2</sup> The trafficking of these and other stolen cultural objects has developed into a criminal industry that spans the globe. The U.S. Federal Bureau of Investigation estimates that this trade results in “losses running as high as \$6 billion annually,” while the Department of Justice has stated that it “is exceeded only by the trafficking in illicit narcotics and arms” [15, 19].

Despite these claims, the illicit antiquities trade’s true extent is unknown, and the International Criminal Police Organization doubts “that there will ever be any accurate statistics” [24]. Incidents of looting are notoriously underreported, since as Interpol also laments, they are “often not discovered until the stolen objects are found on the official arts market” [24].<sup>3</sup> By definition, trafficking is covert and therefore not covered by official records, though statistics of government seizures hint at its scale. Further information may be pieced together from anecdotal evidence, site surveys, and reports from news agencies, governments, and other institutions.<sup>4</sup>

These practical challenges are accompanied by theoretical ones. Proulx [31] has noted the “scholarly tendency” to treat the illicit antiquities trade and similar transnational crimes as globalized phenomena absent local context. She argues that researchers must fight this propensity by turning their attention to the microlevel dynamics of such offenses. Only then can they connect the “locality” to the “globality” (p. 3). In the meantime, to reverse a popular metaphor, scholars cannot

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<sup>1</sup> Lipe notes that “All cultural materials, including cultural landscapes, that have survived from the past, are potentially cultural resources—that is, have some potential value or use in the present or future” (p. 2). He identifies four such values: associative/symbolic; informational; aesthetic; and economic. Archaeologists primarily value the informational value, and to a lesser extent, the associative/symbolic value. This approach promotes the preservation of cultural resources. On the other hand, “The aesthetic value of cultural resources, when coupled with a market in ancient or primitive art, can lead to the wholesale despoliation of archaeological sites and historic monuments, and thus preclude their use as informational or symbolic resources” (p. 7).

<sup>2</sup> Elia [18] and other archaeologists have long maintained “There is no doubt that these two activities—looting and collecting—are linked. In fact the antiquities market is an economic system based on elementary principles of supply and demand: Collectors (both private and institutional) create the demand, and looters create the supply through the intermediary of the dealers. The market drives the looting and the looting destroys the sites” (p. 240).

<sup>3</sup> Atwood [3] elaborates: “It is riskier to buy and sell pieces hacked off stolen monuments because there will be records and photographs of what those pieces looked like and where they stood originally. The same is true of pieces stolen from museums: in most cases, there will be records and accession numbers showing where they came from [...] Antiquities pulled from the ground, however, have no such records, no catalogue numbers or schematic drawings, and so it is much more difficult to detect them as they move through the market and, if seized, to prove that they were plundered” (p. 10).

<sup>4</sup> For academic works that have made great use of such sources, c.f. [1, 3–10, 11–13, 17, 20–23, 26, 28, 29–33, 37–39].

see the trees for the forest. The trafficking of antiquities, in other words, cannot be understood in the abstract.

A study of the small Southeast Asian nation of Cambodia presents an opportunity to ground the illicit antiquities trade in reality. Over the last quarter century, looters have been decimating the country's rich archaeological sites, at a devastating speed and scale. The scars from this plunder—desecrated tombs, beheaded statues, ransacked temples—have been recorded in painful detail by many (including the author).<sup>5</sup> The path of the purloined artifacts themselves has been more difficult to document. Most have vanished into “the laundering process which transforms looted antiquities into art commodities: objects go in dirty, corroded, and broken, and come out clean, shiny, and whole” ([16], p. 249). They enter the trade illicit and exit licit. Indeed, when stolen Cambodian pieces do resurface, more often than not, it is on the “legitimate” international art market.<sup>6</sup>

By investigating the international art market, this paper aims to better comprehend the trafficking of Cambodian antiquities, while supplementing the previous studies that have detailed the pillaging of the country's archaeological sites.<sup>7</sup> Of course, the market for Cambodian art is wide, ranging from small, specialized dealers to immense, international auction houses. Data is difficult to obtain from the former, but the latter commonly publish their sales in catalogues, producing a public record of their dealings. Sotheby's Auction House, in particular, provides an excellent sample of the global market for Cambodian artifacts.<sup>8</sup> It is one of the world's oldest and largest auction houses, and a prominent seller of Asian art, including that from Cambodia. For over 20 years, Sotheby's Department of Indian and Southeast Asian Art in New York City has held regular sales of Cambodian antiquities, which have been well published in print catalogues and on the web.<sup>9</sup> It has placed almost 400 Cambodian pieces on the block since 1988—when those auctions began—to date.

These objects are parts of a puzzle. When combined with other pieces—such as the before-mentioned anecdotal evidence, site surveys, and reports—they form

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<sup>5</sup> The looting of Cambodia's archaeological sites has been well chronicled in books, academic papers, news articles, and the reports of governmental and nongovernmental organizations. The NGO Heritage Watch, with which the author has worked since 2004, is dedicated to studying and combating the plundering and trafficking of Cambodian antiquities. In addition to conducting its own research, it also serves as a clearinghouse of information from other sources. See [www.heritagewatchinternational.org](http://www.heritagewatchinternational.org).

<sup>6</sup> Labeling the public art market “legitimate” is a misnomer. Elia [16] has recognized that “Those who study the antiquities market, the author included, regularly make the mistake of talking about the ‘illicit’ market and the ‘licit’ market as if they were two separate entities, when in fact they are one and the same” (p. 245). Coggins [14] puts it more bluntly: “The modern international antiquities market is a black market” (p. 232).

<sup>7</sup> And, as Proulx urges, to connect the “locality” of looting in Cambodia with the “globality” of the illicit trade in its art.

<sup>8</sup> Sotheby's long time rival—Christie's—also auctions Cambodian antiquities. The author hopes to study their sales at a future date.

<sup>9</sup> Catalogues of Sotheby's auctions dating back to 1995 are published on the institution's website. See [www.sothebys.com](http://www.sothebys.com). For sales prior to this date, the author consulted print catalogues, which she accessed at the auction house's New York office. Catalogues can also be purchased from Sotheby's itself or found at art libraries throughout the United States.

a picture, albeit incomplete, of the looting and subsequent trafficking of Cambodian artifacts. This study begins to reveal this image. In doing so, it supports the stance that the illicit antiquities trade, like any trafficking, is a product of supply and demand.<sup>10</sup> Hopefully, further research will clarify this economic system, and eventually lead to the better safeguarding of Cambodia's archaeological heritage.

### Cambodia's archaeological heritage

Cambodia, the heart of the ancient Khmer Empire, was once the most powerful force in Southeast Asia.<sup>11</sup> During the Angkorian Period—from the 9th to 15th centuries—this empire extended far beyond Cambodia's current borders and into areas now firmly within the countries of Vietnam, Thailand, and Laos.<sup>12</sup> The Khmer built their capital at Angkor, near the present-day Cambodian town of Siem Reap, and filled it with great temples, reservoirs, waterways, and stone roads. The city had a population in the millions and its crowning achievement—the 12th century temple of Angkor Wat—still rivals the Egyptian pyramids in scale and the Sistine Chapel in detail. But ambitious building projects like Angkor Wat and the later temple of the Bayon increasingly taxed and weakened the Khmer Empire. The Thais began to chip away at its borders, and in 1431, they finally invaded and sacked Angkor. The once great city was abandoned to the jungle, as the Khmer court fled to their new capital on the banks of the Mekong, never to regain their former glory.<sup>13</sup> But the splendor of the Khmer Empire still survives more than 500 years after its collapse.

Cambodia is carpeted by remnants of antiquity, ranging from vast temple complexes dominating the landscape, to precious grave goods buried beneath it.<sup>14</sup> This ancient heritage has immense historic, religious, and cultural significance to the

<sup>10</sup> According to Elia [18], “This basic outline of how the antiquities market works as an economic system has been well know for almost a decade. The adoption of the UNESCO cultural property convention in 1970 brought the topic of looting and the illicit trade to the world's attention. In the 1970s a series of books exposed the looting-collecting nexus, including Dora Jan Hamblin's *Pots and Robbers* (1970), Karl Meyer's *The Plundered Past* (1973), and Bonnie Burnham's *The Art Crisis* (1975). A steady spate of articles, conference proceedings, and books has followed, including several detailed case studies of looting as well as of efforts to assess the problem of looting from a quantitative perspective. Based on all the information that has been readily available in the last few decades, no informed, rational person can deny that market demand, and therefore collecting is directly responsible for the looting of the world's cultural heritage” (240–241).

<sup>11</sup> The word “Khmer” is often used synonymously with “Cambodian,” even though it technically it refers to the Khmer people and attributes of their culture, such as language and art. The Khmer probably migrated to Southeast Asia from China during the third millennium BC. After they settled in present-day Cambodia, their history parallels that of the country itself. Today, they make up 90% of the Cambodian population. ([25]: 10–13).

<sup>12</sup> Archaeological and historical evidence establishes that the Khmer Empire reached at least to Oc Eo in present-day Vietnam, Phimai in Thailand, and Wat Phu in Laos.

<sup>13</sup> For a detailed account of the ancient Khmer Empire written for the general public, which expands on this brief history, see Higham's *The Civilization of Angkor* Berkeley: University of California Press, 2001.

<sup>14</sup> See Figs. 1, 2, and 3.

Cambodian people, and since it attracts millions of tourists each year, is among the country's most important economic resources.<sup>15</sup> It is also among its most endangered, and having survived centuries of war and abandonment, may ironically be destroyed by its own popularity. Looters, seeking prized Khmer artifacts, are pillaging Cambodia's past. Bandits hack entire temples to rubble, severing prized statues and bas-reliefs, destroying the rest of the site in the process. Thieves hunting grave goods and other buried treasures reduce miles of the terrain to moonscapes. With each plundered antiquity smuggled from the country, and onto the international market, untold knowledge of the past is lost.<sup>16</sup>

Protecting heritage is an overwhelming battle for Cambodia, which has only recently emerged from decades of civil war, genocide, and foreign occupation. Unlike many of the country's other problems, the illicit antiquities trade cannot be solved within its borders, since it is a product of the foreign demand for Khmer art. Therefore, the fight to save Cambodia's patrimony must therefore be taken overseas, to those places where its art is bought and sold. Like Sotheby's Auction House in New York City.

### Sotheby's auction house

Sotheby's is "not just one of the oldest fine art auctioneers in the world; but also now the largest" [34]. Sotheby's predecessor, Baker's, held its first sale in London on 11 March 1744, which contained "several Hundred scarce and valuable books in all branches of Polite Literature," and sold for a few hundred pounds (ibid). Now, "[t]here are more than 100 Sotheby's offices around the world," and by the end of the millennium, "auction sales produced a turnover of just under \$2 billion" (ibid).

The historic auction house clearly has enjoyed much success, but in modern times, it has also been tainted by scandal. In 2000, the F.B.I. revealed that Sotheby's had engaged in criminal price fixing with its rival Christie's, resulting in a prison sentence for the company's owner [2, 27]. More relevant to the present topic, Sotheby's has repeatedly been caught auctioning stolen art and looted antiquities, including pieces from Cambodia. For example, Sotheby's repatriated two sandstone heads and a statuette to Cambodia after they were published by

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<sup>15</sup> Ticket sales for Angkor Wat alone bring in approximately \$30 million a year to Cambodia, though the tourism industry has been negatively affected by the worldwide recession. Despite this recent downturn, tourism revenue still makes up an extraordinary 13.6% of the Cambodian Gross Domestic Product (GDP), which equals approximately \$1,561,000,000 (US). The vast majority of tourists are drawn to Cambodia because of its archaeological heritage. "Angkor ticket revenues up 20pc during Q1," *Phnom Penh Post*, March 30, 2010, available from [www.phnompenhpost.com/index.php/2010033034485/Business/angkor-ticket-revenues-up-20pc-during-q1.html](http://www.phnompenhpost.com/index.php/2010033034485/Business/angkor-ticket-revenues-up-20pc-during-q1.html).

Ministry Program, Ministry of Tourism, <http://www.mot.gov.kh/minister-program.php?id=11>; Tourism Statistics Report, March 2010, Ministry of Culture [http://www.cambodia-tourism.org/download/Cambodia\\_Touris\\_Statistics\\_2010.pdf](http://www.cambodia-tourism.org/download/Cambodia_Touris_Statistics_2010.pdf).

<sup>16</sup> See Figures 4, 5, and 6.



**Fig. 1** Cambodia's most famous temple—and ancient capital—Angkor Wat (Photograph courtesy Diane Flynn, 2006)

*Looting in Angkor: One Hundred Missing Objects*, a 1993 report of UNESCO's International Council of Museums (ICOM), which pleaded for the return of 100 valuable antiquities stolen from the Conservation d'Angkor in the 1980s and early 1990s.<sup>17</sup> In his exposé *Sotheby's: The Inside Story* (1997), journalist Peter Watson uncovered that sculptures from Angkor Wat had been smuggled into Sotheby's London offices disguised as “dolls” and “stone torsos,” on at least two separate occasions (p. 254).

After reading Watson's indictment, the author of this paper became very interested in Sotheby's auctions of Khmer art, and whether they included other looted antiquities from Cambodia. While founded in London and now based in New York, Sotheby's actually has a sizable presence in Asia, with 10 offices in the region and regular auctions in Hong Kong.<sup>18</sup> Since holding its first sale of East Asian art in 1922, it has also become an established dealer of South and Southeast Asian art, whose “auctions have set record prices for traditional sculptures and works of art” [35, 36]. Sotheby's Department of Indian and Southeast Asian Art now maintains offices in London, Geneva, Paris, Zurich, and

<sup>17</sup> ICOM: The One Hundred Missing Objects Series, [http://www.museum.or.jp/icom/list\\_thanks\\_angkor.html](http://www.museum.or.jp/icom/list_thanks_angkor.html), (last visited May 1, 2009).

<sup>18</sup> In addition, maintains offices in Singapore, Bangkok, Beijing, Korea, Kuala Lumpur, Manila, Shanghai, Taipei, Tokyo, Jakarta and auctions in Hong Kong. For more information on Sotheby's office locations, visit <http://www.sothebys.com/app/live/office/OfficeLanding.jsp>.



**Fig. 2** The Bayon temple, Ankgor Wat. Photograph by Tess Davis, 2005

New York [36].<sup>19</sup> The latter is home to the section's regular ancient art auctions, which began in 1988. Nearly all of these sales—which usually take place once to twice a year—have included Khmer antiquities.<sup>20</sup> Their catalogues therefore provide an excellent starting place for examining the wider international market for Cambodian art.<sup>21</sup>

<sup>19</sup> It is interesting to note that Sotheby's Department of Indian and Southeast Asian art does not maintain any offices in South or Southeast Asia, which confirms that the demand for the region's art is coming from outside the region. See Sotheby's office location information at: [http://www.sothebys.com/app/live/dept/DepartmentGlobal.jsp?dept\\_id=37](http://www.sothebys.com/app/live/dept/DepartmentGlobal.jsp?dept_id=37).

<sup>20</sup> Only a fraction of all the antiquities auctioned by the Department of Indian and Southeast Asian Art were Khmer; the vast majority were from Central or South Asia, particularly the Himalayas and India.

<sup>21</sup> The Department has auctioned antiquities in its sales entitled *Indian and Southeast Asian Art*; *Indian and Southeast Asian Works of Art*; *Indian, Himalayan, and Southeast Asian Art*; *Indian, Himalayan, and Southeast Asian Art and Indian Miniatures*; *Arcade: Asian Art*; and *Asian Decorative Works of Art*.



**Fig. 3** 10th Century Temple of Prasat Thom, Koh Ker, Northern Cambodia. Photograph by Tess Davis, 2005

### **Sotheby's auctions of Khmer antiquities**

An analysis of these catalogues indicates that between 1988 and 2010, Sotheby's Indian and Southeast Asian Art Department's auctions in New York included 377 lots of Khmer antiquities attributed to Cambodia.<sup>22</sup> The size, quality, and cost of each varied greatly. This difference was reflected in their estimated prices, which

<sup>22</sup> 368 unique Khmer antiquities were auctioned by Sotheby's Department of Indian and Southeast Asian Art in New York auctioned between 1988 and 2010. 9 of these were duplicates, auctioned twice during the study period, leading to a total of 377 lots. This study relied on Sotheby's descriptions for determining whether a Khmer antiquity was from Cambodia and excluded those that were sourced to other countries.





**Fig. 4** Looters' Pits, Northwestern Cambodia. Photograph courtesy Dougald O'Reilly

ranged from US\$400 to US\$600,000, with an average of approximately \$17,000 to \$24,600.<sup>23</sup>

The types of artifacts auctioned were otherwise remarkably similar. Ninety-one percent were sculpture, primarily statues in the round or reliefs, nearly all of which represented Hindu or Buddhist deities.<sup>24</sup> The remaining were ornaments or ceramics. Sixty percent were made from sandstone, 38% from metal (primarily bronze), and the remaining 2% from either clay or wood.

While a few pieces dated as early as the 6th century, and others as late as the 16th, 77% were from the 12th century, with most of the rest dating to the century immediately before or after. This was the height of the Angkorian period, so it is not surprising that stylistically, 65% of the objects auctioned belonged to either the Angkor Wat School or its successor the Bayon School. Eight other distinct periods of Khmer art were also represented (Table 1).<sup>25</sup>

Seventy-one percent of the antiquities had no listed provenance. Provenance is generally defined as “place of origin,” but in the field of archaeology, it signifies the findspot of an artifact in an excavation (the term, when thus used, is often spelled “provenience”). This context adds significant, but fragile, informational value that

<sup>23</sup> These and other prices have not been adjusted for inflation.

<sup>24</sup> While Cambodia is a Buddhist country today, during much of the Angkorian Empire, it was Hindu.

<sup>25</sup> Other styles identified by Sotheby's were the Angkor Borei Style, Angkor Wat Style, Bakheng Style, Bakong Style, Baphuon Style, Bayon Style, Koh Ker Style, Phnom Da Style, Pre Rup Style, Preah Ko Style, and Pre-Angkor Style.



**Fig. 5** Looters' Pit, Koh Ker, Northern Cambodia. Photograph by Tess Davis, 2005

**Fig. 6** Looted statue, Preah Vihear, Angkor Park. Tess Davis, 2005



**Table 1** Characteristics of the typical Khmer antiquity auctioned by Sotheby's Department of Indian and Southeast Asian Art in New York from 1988 to 2010

Estimated price	\$17,000 to \$24,000
Type	Sculpture (91%)
Subject	Hindu or Buddhist Deity
Medium	Sandstone (60%)
Age	12th Century—Height of Angkorian Period (77%)
Provenance	None (71%)

has greatly contributed to our current understanding of the ancient world.<sup>26</sup> Most of it is irrevocably lost in cases of shoddy excavation or looting.<sup>27</sup>

In the art world, and therefore Sotheby's catalogues, provenance instead refers to a piece's ownership history. Objects with a provenance—those known to have been published, exhibited, or to have come from collections already in existence—are usually more valuable than those without, given that provenance acts much like a pedigree.<sup>28</sup> Thus, if an auction house does not advertise provenance, it is usually for one of three reasons—the provenance is known and legitimate, but the consignor does not want it published; the provenance is known, but somehow incriminating; or the provenance is unknown. Either of the last two reasons suggests that unprovenanced antiquities, at

<sup>26</sup> Atwood [3] encapsulates the contribution that provenance has made to our knowledge about the past: "When ancient sites are excavated carefully and methodically by trained archaeologists, all of humanity can gain an understanding into how those societies lived, how they worshiped, how they raised their children, what they valued. Most of what we know about ancient life has been gained in this way. Through modern archaeology we know that Iraqis invented the wheel about 3000 B.C., that Vikings reached America five centuries before Columbus, that humans first crossed from Asia to Alaska about 14,000 years ago and filled the American continent within a few centuries, that the Incas practiced a form of brain surgery, that plagues of European diseases like smallpox swept through the Indian settlements in Florida a few years before any Europeans arrived there, that early Mexicans took a weed and cultivated it over centuries to turn it into corn. None of this knowledge was handed down orally from generation to generation; nor, in most case, was it written in ancient texts. We know it because scientists were able to spend years descending through minute layers of sediment with toothbrushes, trowels, and picks at undisturbed sites. How do we know about the origins of corn, for example? Because archaeologists near Mexico City discovered *grains of pollen* from corn plants dating from thousands of years back at 150 below ground" (p. 9).

<sup>27</sup> While it is possible to appreciate the beauty of Khmer antiquities without a provenance, art historians like Helen Jessup [25] have recognized that the context of these objects is critical to improving our appreciation of ancient Cambodia: "Our knowledge is limited, as there is no written record, and any understanding of the culture is dependent on archaeological investigations of urban sites and material evidence such as bronze and ceramic artifacts. When these are divorced from matrix, which is the case with most of the objects preserved in museums, we cannot tell whether they were imported or locally made, whether they indicate a pervasive culture in the region or efficient trade connections that distributed single-source production over a wide area" (pp. 8–9). Atwood [3] expresses a similar sentiment more humorously: "Looted objects are pretty but dumb" (10).

<sup>28</sup> In addition to serving as a pedigree, provenance adds value to an antiquity because it offers the buyer some assurance that the piece won't be the subject of a restitution claim. The risk of an ownership dispute is especially lowered if the object's acquisition pre-dates the 1970 UNESCO Convention. Asian Market Shows Its Strength, New York Times, <http://www.nytimes.com/2008/09/27/arts/27iht-melik27.1.16500460.html>; Antiquities to Grow Old With, Bloomberg Businessweek, September 26, 2005, [http://www.businessweek.com/magazine/content/05\\_39/b3952118.htm](http://www.businessweek.com/magazine/content/05_39/b3952118.htm).

some point in their histories, were illegally acquired. And, of course, only a valid archaeological provenance guarantees that an artifact was not looted.<sup>29</sup>

Again, only 29.44% of the antiquities had any provenance listed, and most of these were weak. Seventy-seven were sourced to private collections.<sup>30</sup> These included the well-known Pan-Asian, Samuel Eilenberg, and Klaus Perls Collections, but also an unidentified “Private New York Estate,” “Private American Collection,” and “Private European Collection.” Only 32 objects had been previously published. Twenty-five had already been on the auction block, 20 at prior Sotheby’s sales, which in effect created a provenance where there had been none before. Fifteen had been exhibited at galleries or museums.

Not one of the 377 lots in this study included a provenance from an official scientific excavation, even though most, if not all, of them came from archaeological sites. None of the provenances demonstrated that any were sold by or with the permission of Cambodia, even though the country’s law dictates that, “archaeological, cultural, and historical patrimonies” are “the public property of the state and public legal entities.”<sup>31</sup> Nor did a single provenance establish that a single object was removed from Cambodia before it was illegal to do so. Laws protecting ancient sites were in place by 1923, when a young André Malraux looted the temple of Banteay Srei, which landed him in a Cambodian jail (but did not prevent him from later becoming the French Minister of Cultural Affairs under Charles deGaulle).<sup>32</sup> And export permits have been required for all Cambodian art and antiquities since 1925.<sup>33</sup>

These provenance—or lack of provenance—statistics pose a troubling question: where did the Khmer pieces in this study come from, if they did not come from archaeological excavations, the Cambodian state and its institutions, or collections established before the law prohibited the removal of antiquities from the country?

### Trends in Sotheby’s auctions of Khmer antiquities

In an attempt to answer this question, the author further investigated the 266 unprovenanced antiquities auctioned by Sotheby’s Department of Indian and Southeast Asian Art in New York between 1988 and 2010.

<sup>29</sup> Coggins [14] observes that “The differences are exemplified by the difference between the stark English *provenience*, meaning the original context of an object, and the more melodious French *provenance* used by the art world, which may include the original source but is primarily concerned with a history of ownership” (234).

<sup>30</sup> “Old collection provenances are notoriously untrustworthy; in fact, they have become something of a joke since Karl Meyer exposed them back in 1973 in *The Plundered Past* as a convenient way for dealers to ‘launder’ objects that are in fact looted and smuggled. Forgeries of provenances have become as commonplace as forged antiquities.” ([18]; p. 245).

<sup>31</sup> Land Law art. 15 (2001). Article 4 of the 1992 Land Law also had a similar “patrimony law.”

<sup>32</sup> In 1930, the French adventurer and author André Malraux wrote *La Voie Royale*, a novel about two European explorers who (like himself) plundered bas-reliefs from the Cambodian temple of Banteay Srei. The book was closely based on Malraux’s own experiences in Indochina. He is most famous for his later existential novel *La Condition Humaine*, also set in Asia, for which he won the Prix Goncourt. Malraux is considered one of France’s greatest statesmen and is a recipient of the Medaille de Résistance, the Croix de Guerre, and the Distinguished Service Order.

<sup>33</sup> Jos Van Beurden, *A Tainted Temple Bell from Cambodia?*, Culture Without Context, Autumn 2005, [http://www.mcdonald.cam.ac.uk/projects/iarc/culturewithoutcontext/issue17/van\\_beurden\\_tainted\\_bell.htm](http://www.mcdonald.cam.ac.uk/projects/iarc/culturewithoutcontext/issue17/van_beurden_tainted_bell.htm).

In the late 1980s, when Sotheby's began its regular sales of South and Southeast Asian art, ten or fewer unprovenanced Khmer artifacts were auctioned each year. This number quickly rose, nearly tripling after 1989, and remained strong until 1993. It then began to drop, until 1998, after which it again spiked. Starting in 1999, however, it plummeted and has remained low ever since. In 2008 and 2009, Sotheby's auctioned no unprovenanced Khmer objects, and in 2010 it auctioned only four.

Table 2 illustrates these fluctuations, but what do they mean, if anything?

It could be argued that they represent the changing demand for Khmer antiquities. According to this line of reasoning, when Sotheby's first began its regular Indian and Southeast Asian Art auctions in 1988, demand for Khmer pieces was low, then grew throughout the early 1990s, due to Cambodia's increasing newsworthiness. It eventually tapered off after the turn of the millennium, when the country faded from the headlines.

This argument is belied, however, by numerous indications that the market for Khmer art has steadily *grown* over the quarter-century. During this time period, the annual number of foreign tourists to Cambodia has increased from zero to over two million, and counting.<sup>34</sup> Numerous museums across the world have established or expanded significant collections of Khmer art and hosted major temporary exhibitions of it.<sup>35</sup> This increased exposure has likely lead to increased demand. Furthermore, art collectors have begun to turn away from the standards of the Classical world, and to the more exotic reaches of Asia and Latin America.<sup>36</sup> Due to all this, it is more likely that the popularity for Khmer art is at an all time high, rather than an all time low.

If the unprovenanced antiquities originated at archaeological sites in Cambodia, however, these variations are not so random after all. The most notable shifts—the increased number of pieces auctioned after 1989, the drop after 1993, the spike after 1998, and the subsequent fall after 1999—can be linked to several events that would affect the number of looted antiquities leaving the country and entering the United States. To appreciate these connections, one must first better understand Cambodia's looting crisis, and its historical roots.

### **Cambodia's looting crisis and its historical roots**

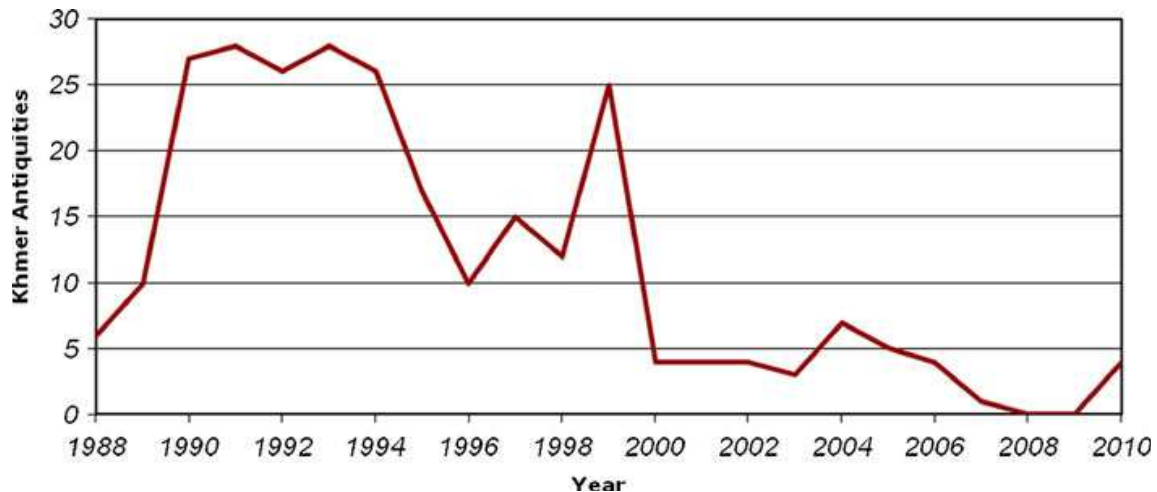
While the intensity of recent looting is unprecedented, Cambodia's temples have always been the victims of theft, albeit for different reasons.<sup>37</sup> When the Thais

<sup>34</sup> Kingdom of Cambodia, Ministry of Tourism, <http://www.mot.gov.kh>.

<sup>35</sup> These include, among others, the Metropolitan Museum of Art in New York City; the Museum of Fine Arts in Boston, the Freer and Sackler Galleries in Washington, DC; the Art Institute of Chicago; the J. Paul Getty Museum in Los Angeles; and the Honolulu Academy of Arts.

<sup>36</sup> Antiquities to Grow Old With, Bloomberg Businessweek, September 26, 2005, [http://www.businessweek.com/magazine/content/05\\_39/b3952118.htm](http://www.businessweek.com/magazine/content/05_39/b3952118.htm).

<sup>37</sup> Less scrupulous collectors and dealers often rationalize the illicit antiquities trade by noting that art has been plundered as long as it has been in existence (much like those who justify prostitution because it is the world's oldest profession). While this argument has obvious logical flaws—just because something was done in the past does not make it right—Atwood [3] has also established that “Today's antiquities trade bears no more relation to those historical examples than modern weapons of war to muskets and pistols” (12).

**Table 2** Annual Number of Unprovenanced Khmer Antiquities

sacked the Angkorian Empire in the 15th century, they carried off to Ayutthya the Khmer's most sacred statues. When the Burmese subsequently conquered Ayutthya, they in turn took the same sculptures, which remain in Mandalay to this day. The Thai and Burmese kings were not seeking valuable pieces of art—as thieves do today—instead they sought “the power of the kings of Angkor as contained in these divine images.”<sup>38</sup>

By the 19th and early 20th centuries, however, looting was largely conducted by Frenchmen hoping to fill their national museums with art from their Cambodian colony. For example, Louis Delaporte, the artist of the famed Mekong Expedition, visited Angkor in 1873, and quickly left with a number of statues.<sup>39</sup> He brought to France 70 in all, which later found a home at the Musée Indochine in Paris. Other travelers followed Delaporte's example, and French museums like the Trocadéro and the Guimet acquired extensive Khmer collections, until Cambodia peacefully achieved independence from France in 1953.<sup>40</sup>

Throughout the 1950s and 60s, the newly independent Cambodia was largely an oasis of peace in war-torn Indochina, and enjoyed a cultural renaissance marked by a renewed national pride in its ancient heritage. Cultural preservation became a priority of the government, which soon joined other states in calling for an international agreement to regulate the illicit art and antiquities trade.<sup>41</sup> Most of the supporters for such an agreement were former European colonies in Asia or Africa, which like Cambodia, feared that the unlawful trade was chipping away at their very national identities.<sup>42</sup> The efforts of these countries and others culminated in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural

<sup>38</sup> Bruno Dagens, *Angkor: Heart of Asian Empire* 20–21 (1995).

<sup>39</sup> C.M. Bhandari, *Saving Angkor* 109 (1995).

<sup>40</sup> Dagens at 64–68. None of the antiquities in the present study can be traced to any of these established collections.

<sup>41</sup> U.N. Educ., Sci. & Cultural Org. [UNESCO], *Final Report: Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, 3 U.N. Doc SHC/MD/5 (Feb. 27, 1970).

<sup>42</sup> Patrick J. O'Keefe, *Trade in Antiquities: Reducing Destruction and Theft* 122 (1997).

Property.<sup>43</sup> But Cambodia could not benefit from this development, as that same year, civil war finally erupted between its government and the communist guerilla army of the Khmer Rouge.

The ill-equipped and untested Cambodian army could not match the hardened Khmer Rouge, who had fought for years alongside the Viet Cong against South Vietnamese and American troops. By the end of 1970, the communists controlled half of Cambodia, with the line of fire lying just past the Angkor temples.<sup>44</sup> Despite the mounting conflict, archaeological work continued at the site until 1973, as “both sides deemed that Angkor had to be preserved.”<sup>45</sup> The Cambodian government demonstrated the same attitude, and ratified the UNESCO Convention in 1972, even though by then it controlled little more than Angkor and the capital of Phnom Penh.<sup>46</sup>

Phnom Penh finally fell to the Khmer Rouge in April of 1975, and the communist victory marked the beginning of one of the century’s darkest periods, known today as the “the Killing Fields.” The Khmer Rouge—fanatically devoted to the pursuit of the communist agrarian state—immediately evacuated the country’s urban centers and forced their inhabitants into agricultural slave camps. They abolished private property, money, education, and religion and purged those associated with the defeated Cambodian government or the West. Execution was not the only threat: more died from disease and starvation in the rice fields where the Khmer Rouge forced the entire Cambodian population to toil. By 1979, when the Vietnamese finally drove the Khmer Rouge from power, half a million Cambodians had fled the country, and a million more had perished in the Killing Fields.<sup>47</sup>

The Vietnamese occupation lasted a decade, ending only when Hanoi bowed to international pressure and withdrew its troops in 1989, leaving a dangerous power void in Cambodia. The Khmer Rouge remained a threat, still occupying the jungles near the Thai border, and used the Vietnamese withdrawal to its advantage by immediately beginning offensives to regain lost territory. The country splintered into several armed political factions. Cambodia was in chaos, and open to the world for the first time in decades—an ideal breeding ground for criminal activity. Arms dealing, drug trafficking, and antiquities smuggling skyrocketed.<sup>48</sup>

During the early 1990s, looting and the illicit traffic of Khmer antiquities “became an organized industry within Cambodia.”<sup>49</sup> The temples of Angkor—which, unlike the Cambodian population, had largely survived the Killing Fields unscathed—were now under attack. On average, an antiquity was stolen from Angkor each day, prompting the government to move many of the site’s remaining pieces to the nearby Conservation d’Angkor.<sup>50</sup> But even it was at risk: the enclosure was attacked three

<sup>43</sup> Convention on the Means of Prohibiting and Preventing the Illicit Import and Export and Transfer of Ownership of Cultural Property, Nov. 14, 1970, 823 U.N.T.S. 231 [hereinafter UNESCO Convention].

<sup>44</sup> Henry Kamm, Cambodia xvii (1998).

<sup>45</sup> Dagens at 126–27.

<sup>46</sup> Cambodia ratified the UNESCO Convention on 26 September 1972, becoming only the 7th state to do so. For a list of state parties and their dates of acceptance or ratification, see State Parties of the 1970 UNESCO Convention, <http://portal.unesco.org/la/convention.asp?KO=13039&language=E>.

<sup>47</sup> See generally Kamm at 134–143.

<sup>48</sup> Kamm, at 230–247.

<sup>49</sup> Chouléan at 108–109.

<sup>50</sup> Jenny Doole, *In the News*, Culture Without Context, Autumn 2001, <http://www.mcdonald.cam.ac.uk/projects/iarc/culturewithoutcontext/issue9/news.htm#Angkor>.

times between 1992 and 1993, and in one particularly violent raid, 300 marauders stole 31 statues and murdered a guard. This attack forced the government to ship a hundred of Angkor's remaining artifacts to Phnom Penh for safekeeping in the National Museum.<sup>51</sup>

Some stability finally returned to Cambodia in 1993, with the completion of elections sponsored by the United Nations, the largest peacekeeping operation in UN history at the time. As the newly elected Cambodian government gained strength, the last remnants of the Khmer Rouge surrendered in 1998, finally bringing an end to the country's conflict. Thanks to these developments, and much international assistance, the government largely secured the temples of Angkor by the end of the decade.

Looters quickly regrouped, attacking those temples and archaeological sites beyond Angkor's boundaries, which were isolated and rarely guarded. The Khmer Rouge surrender had unlocked parts of the country along the Thai border that had been inaccessible since the 1970s, including direct smuggling routes to Bangkok, the center of the antiquities trade in Southeast Asia. This newly opened territory also included some of the country's greatest temple complexes—such as Banteay Chmar, Koh Ker, and Preah Khan of Kompong Svay—all of which suffered great damage at the turn of the millennium.<sup>52</sup>

In response to this decade of pillage, Cambodia had enacted additional laws criminalizing looting and the unauthorized export of antiquities, first in 1992 and again in 1996.<sup>53</sup> But as would be expected in such an impoverished, post-conflict country, the extremely limited resources of the police and judiciary made enforcing them practically impossible. So in 1999, using a procedure established by Article 9 of the UNESCO Convention of 1970, Phnom Penh successfully petitioned the United States to impose emergency import restrictions on “Khmer stone sculpture and architectural elements from Cambodia, unless such objects were accompanied by export permits issued by the Government of the Kingdom of Cambodia, or by documentation demonstrating that they were out of the country before December 2, 1999.”<sup>54</sup> In 2003, the U.S. and Cambodia entered into a Memorandum of Understanding (MOU), which solidified these restrictions and extended them to include stone, metal, and ceramic archaeological materials. In 2008, both countries extended this MOU for another 5 years, and further broadened it to include artifacts dating back to the Bronze Age.<sup>55</sup>

It is no wonder then that before 1989, Sotheby's Department of Indian and Southeast Asian Art in New York auctioned few unprovenanced Khmer antiquities, given that Cambodia was isolated from the Western world due to the Vietnamese

<sup>51</sup> Ang Chouléan et al., *Angkor: Past, Present, and Future* 112 (1998).

<sup>52</sup> Between 2004 and 2006, on behalf of Heritage Watch, the author conducted surveys of looting at such sites throughout Cambodia—including Koh Ker, Banteay Chmmar, Beng Melea, Phnom Banan, Phnom Chisor, and Tonle Bati. These studies were originally meant to map the extent of looting, but the destruction was so ubiquitous that plotting it would simply have created overlays of the temple layouts. Therefore, the few remaining architectural elements and statuary were plotted and photographed, along with particularly egregious incidents of looting.

<sup>53</sup> These are the Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period [UNTAC Criminal Code] (1992) and the Law on the Protection of Cultural Heritage (1996).

<sup>54</sup> Cambodia, Import Restrictions, International Cultural Property Protection, U.S. Department of State, <http://exchanges.state.gov/heritage/culprop/cbfact.html>.

<sup>55</sup> *Ibid.*



occupation. Nor is it surprising that it sold an increasing number afterwards, since Cambodian archaeological sites were being plundered at an unprecedented rate, and it was relatively easy for looted antiquities and other contraband to leave the country. Then, as the 1993 United Nations elections increased political stability and decreased theft at the temples of Angkor, the number of artifacts put on the auction block also decreased. This decline continued until 1998, when the Khmer Rouge surrender opened direct smuggling routes to Bangkok from some of Cambodia's greatest temple complexes, and sales doubled. But in 1999, the U.S. restricted the import of archaeological material from Cambodia, and Sotheby's New York auctions of Khmer antiquities plunged by 80%. They have not yet had a chance to recover, as these import controls were expanded in 2003, and again in 2008.

As the preceding paragraphs demonstrate, Sotheby's auctions of Khmer art appear very closely linked to events that would facilitate or prevent the number of looted antiquities leaving Cambodia and entering the United States. This apparent connection suggests an illegal origin for many, if not most, of the Khmer pieces sold by Sotheby's—especially absent any provenances refuting such an implication—but it could also be coincidence. Either way, it warrants more investigation, and in the meantime, more transparency from Sotheby's regarding its antiquities sales.

## Conclusion

In conclusion, between 1988 and 2010, Sotheby's Department of Indian and Southeast Asian Art in New York City auctioned 377 lots of Khmer antiquities. Only 29% had a listed provenance, or ownership history, which traced them to previous publications, exhibitions, or collections. Most of these provenances were weak, such as anonymous private collections, or even prior Sotheby's sales. And none of them established that any of the artifacts had entered the market legally, that is, that they initially came from archaeological excavations, colonial collections, or the Cambodian state and its institutions.

Seventy-one percent had no published provenance. While this statistic is alarming, in and of itself, fluctuations in the sale of these unprovenanced pieces can also be linked to events that would affect the number of looted antiquities exiting Cambodia and entering the United States. The end of the Vietnamese occupation in 1989, the United Nations elections of 1993, the Khmer Rouge surrender in 1998, the U.S. import restrictions of 1999, the U.S.-Cambodia MOU of 2003, and its renewal in 2008 are all apparently reflected. This correlation suggests an illegal origin for much of the Khmer material put on the auction block by Sotheby's.

If this implication is incorrect, Sotheby's can easily disprove it, by providing valid provenances for all its Khmer sales. Its refusal to publish this information—despite requests from numerous organizations, scholars, foreign governments, and even the media—is hardly testament to its innocence.<sup>56</sup> Nor is the tragic truth that looting that

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<sup>56</sup> For a documentary that investigated Sotheby's sales of Khmer antiquities, in which the author participated, see <http://www.pbs.org/wnet/religionandethics/week925/cover.html>. The producers made repeated request to the auction house for more information on its Khmer art sales, which were never answered.

has decimated Cambodia's archaeological sites over the last quarter century. If the countless antiquities plundered from the country have not ended up on the international art market—where have they gone? Furthermore, if pillaged sites are not the source of Sotheby's auctions of Khmer artifacts, then what is? Unless these pieces are forgeries, they simply must have come from archaeological sites, at some point in their history.

This study further demonstrates that the battle to protect the past is best fought in those countries where looted art is bought and sold. Cambodia's own laws protecting its cultural heritage had little, if any effect, on the number of Khmer pieces entering the international art market. The U.S. import restrictions, however, seemed to have a huge impact.<sup>57</sup> If other art market countries enact and enforce more such laws, then perhaps they will begin to stifle the demand for illicit Khmer art, eventually leading to a decrease in the looting of Cambodia's archaeological sites. Such normative changes may seem overly optimistic, but they have happened in the past, most remarkably in response to campaigns against the wildlife trade.<sup>58</sup>

Does it matter whether artifacts were blasted from temples by Khmer Rouge guerillas in the last decade, or chiseled away by French colonials in the last century? Both destroyed the history of many for the pleasure of a few. No one questions the lure of antiquities—archaeologists especially—but by purchasing them, especially absent a provenance, collectors are both condoning and even encouraging the destruction of the very art they love.

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<sup>57</sup> Of course, even if Cambodian and U.S. efforts have effectively reduced public sales of looted Khmer artifacts in New York, it is impossible to know whether the illicit trade is actually being reduced, or simply driven further underground.

<sup>58</sup> Wild Aid's long-running and award-winning campaign against the illicit wildlife trade is encapsulated by its slogan: "When the buying stops, the killing can too." Through the organization's efforts, this message still reaches a billion people a week, and is credited with changing cultural norms regarding the sale of ivory and other animal parts. See [www.wildaid.org](http://www.wildaid.org).

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