

# RETURNING

An archaeologist helps a looted 10th-century statue make the long trip home

By Tess Davis  
(CAS'04)

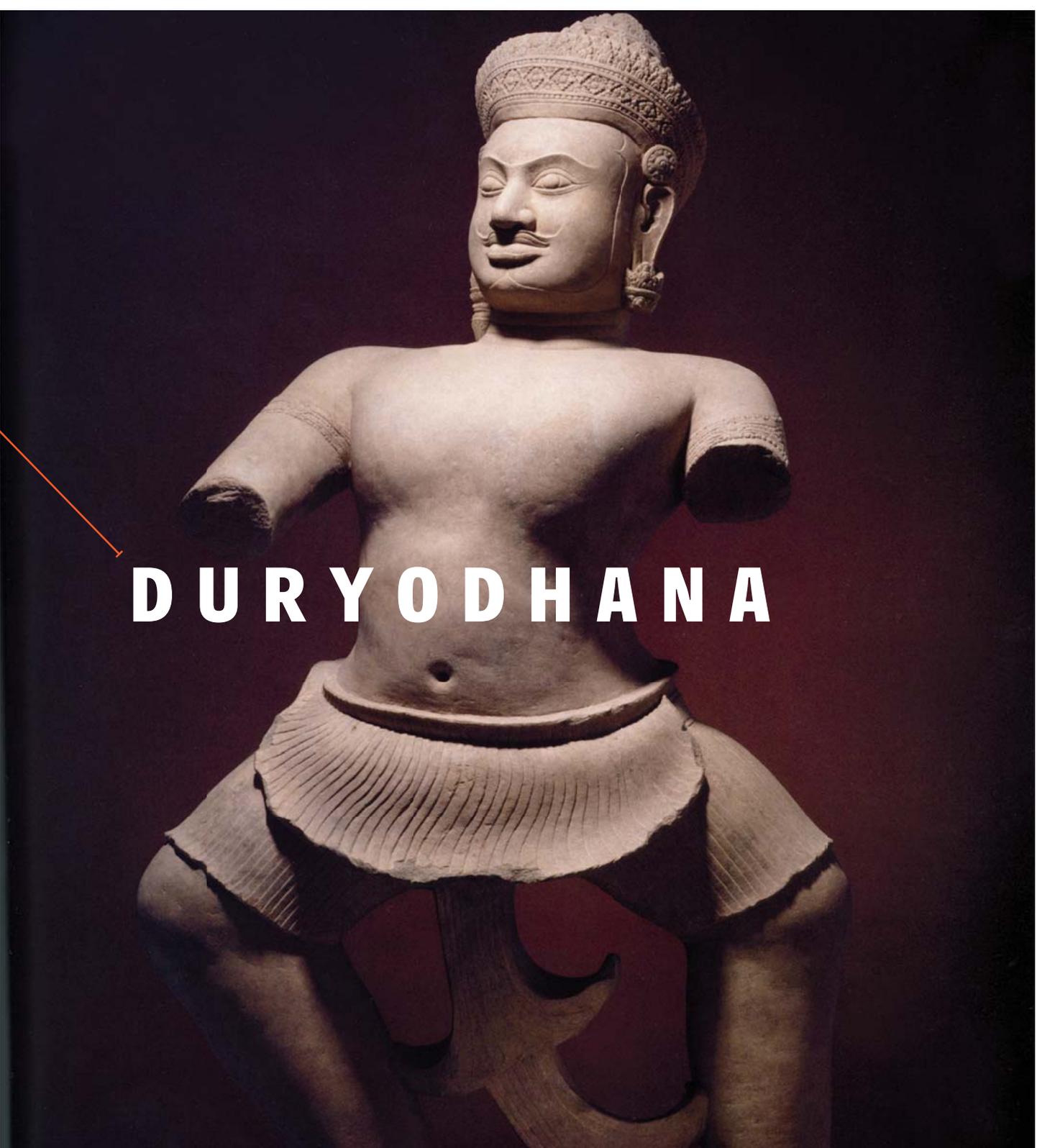
THE OLD WOMAN HAD lived through many chapters of Cambodian history: the French colonial period, independence, civil war, genocide, the Vietnamese occupation, and finally, peace. She lived happily now, surrounded by children and grandchildren in a wooden house in a rural village five miles from the ruins of Angkor Wat, the vast temple complex built by her ancestors in the 12th century. That's where my colleagues and I found her, after we left behind the throngs of tourists at the temples and followed a string of cows home from the rice paddies to her little community. Accustomed to the sight of stray foreigners, she welcomed us without surprise, her head bowed slightly and hands pressed together in the traditional greeting. Then, with the hospitality so often bestowed upon strangers in the countryside, she invited us into her home, insisting that I (the only woman in our trio) take her hammock.

We were three lawyers and researchers, working with the University of Glasgow, hoping to learn from village



The author at Koh Ker, beside what was left of statues of the warriors Bhima and Duryodhana, from the Hindu epic the *Mahabharata*.

The 62-inch-tall Duryodhana as it appeared when Sotheby's hoped to auction it for \$3 million in March 2011.



# DURYODHANA

ERIC MCBRIDE (FACING PAGE); US ATTORNEY'S OFFICE VIA GETTY IMAGES (LEFT)

elders about the great temples and the fate of their magnificent statues.

Ah, yes, she said, the ruins. She knew them well. As a girl, she played there. As an adult, she and her husband worked there with French archaeologists, he caring for the stones and she planting gardens around them. When the civil war came, in 1970, she hid there with her family, hoping the sacred walls would protect them from artillery fire and rampaging armies. They did not. The region fell first, then the entire country was taken by the communist Khmer Rouge. Those who were not immediately purged were moved into the labor camps now known as the Killing Fields. One in four Cambodians died there.

**The villagers believed that looters risked a curse that could bring illness or death. But it was war, and they were under orders.**

*the Cambodian army, the paramilitary, the Thai, the Vietnamese. Where did the statues go? Bangkok. And from there?*

Here's where the answers differed. Some villagers knew the statues had gone on from Thailand to Europe and to America. Many did not, and they reacted with a combination of shock, horror, and perhaps even a little pride when shown a glossy coffee-table book showcasing hundreds of Khmer masterpieces now in top overseas collections. Some of the people we spoke to had helped to steal the sculptures, and many had relatives who had done the same. Their reasons were understandable. It was war. They were under orders. They were starving and needed money. Did they want to rob the temples? Of course not—it brings very bad luck. A curse even, illness and death. How to stop the looting? This was the question no one could answer.

The people were not the only victims. Before the conflict ended in 1998, most of the temples in Cambodia had been plundered, their sacred artworks smuggled out of the country and moved quietly into the art market. Antiquities flooded by the thousands into art collections overseas as Cambodia's many centuries of history were sold to the highest bidder.

The old woman's story was similar to others we had heard. Were there many statues before the war?

*Yes, many. Who took them? Soldiers. Which soldiers?*

*All of them, the Khmer Rouge,*

As long as foreigners wanted to buy the statues, there would always be someone to steal them.

Why did we care, the old woman asked? We told her we believed that Cambodia's statues were sacred objects that were never meant to be bought and sold. We hoped to help them come home. It was a goal that, 10 years ago when I started this work, seemed all but impossible. Then suddenly, there was hope.

In 2007, a British stone conservator named Simon Warrack made a discovery at Prasat Chen, a 10th-century sanctuary in Koh Ker, a vast archaeological site in the jungles of northern Cambodia. Warrack stumbled on two sandstone pedestals, each topped with the crumbling feet of a larger-than-life—now absent—figure. At the time, Koh Ker was isolated and overgrown, having been under Khmer Rouge control on and off until the late 1990s. Its grounds were encircled with red-and-white skulls and crossbones warning of land mines and other unexploded ordnance, while its temples were littered with other empty pedestals like those at Prasat Chen. The statues themselves—once so abundant that a French explorer described Koh Ker as a “historical museum”—had nearly all been lost to foreign collections.

Before Warrack's find, few people had visited Prasat Chen, and to those who had been there, including myself, the sandstone pedestals had appeared insignificant. Warrack saw something the rest of us had missed. He imagined that the two figures that once rose from the crumbling feet had been facing off in combat.

Unable to forget that image, Warrack turned his attention to those foreign collections, scouring archives and libraries for the missing figures. His efforts paid off. The *Temple Wrestler* at the Norton Simon Museum in Pasadena, Calif., appeared to be a perfect match.

Two years later, in 2009, French archaeologist Eric Bourdonneau confirmed Warrack's finding. Bourdonneau made another breakthrough: the missing companion to the Norton Simon piece, matching the other fragmented slab at Prasat Chen, appeared to be on the opposite coast of the United States. In fact, it happened to grace the cover of Sotheby's *Asia Week* catalog. The sale of this “highly important sculpture of an athlete” was scheduled for March 24, 2011, in Manhattan and was expected to bring in between \$2 million and \$3 million. Bourdonneau also learned that the statues were neither temple wrestlers, as the Norton Simon described them, nor athletes, as Sotheby's did. They were the warriors Bhima and Duryodhana, from the great Hindu epic the *Mahabharata*, brought to life in the round and locked in a fight to the death.

Archaeologist Tess Davis searched libraries in Cambodia for documents proving that the country's ancient art has long been protected. It has.



### **BANDITS, GRAVE ROBBERS, AND PIRATES**

I became interested in the illicit antiquities trade while studying archaeology at BU and working for the Archaeological Institute of America, just down the street in Kenmore Square.

In 2003, that interest first led me to Cambodia, and I spent a summer doing archaeological fieldwork near the Mekong Delta. The hours were from dawn to dusk, the living conditions rustic, and I spent weeks flat on my back with a mystery fever. I'd never been happier.

Except for one thing. While Angkor Wat and Cambodia's other temples were even more beautiful than I'd imagined, they were mere echoes of their former selves. Bandits had hacked many of them to

**The obstacle to law enforcement is that the illicit antiquities trade has been treated as a white-collar and victimless crime.**

rubble, severing prized sculptures and destroying all else in the process. Grave robbers had reduced miles of ancient cemeteries to moonscapes. Pirates were even plundering ancient shipwrecks in the Gulf of Thailand. They were doing it because someone, somewhere, wanted a piece of history on their mantel and didn't care at what cost. But I also saw the remarkable strides that Cambodia had made. In a decade, Angkor Wat went from one of the world's most endangered sites to one of its more protected, with 400 "cultural heritage

police" patrolling its ruins.

Since that time, my career has shifted from archaeology to law to academia, but while my titles have changed, the job has always remained the same: to make sure our children have the opportunity to enjoy the beauty of Angkor Wat, the pyramids, and other wonders threatened by the illicit antiquities trade.

In January 2013, I joined the University of Glasgow as part of Trafficking Culture, a team made up of archaeologists, criminologists, and other lawyers. With a \$1.5 million grant from the European Research Council, Trafficking Culture is working to produce a clearer picture of the illicit antiquities trade in the hope of developing effective policy recommendations to counter it. In practical terms, this means gathering and analyzing data from customs records, auction sales, and museum acquisitions, conducting interviews with

key players in the art trade and law enforcement, and studying comparable trafficking markets, like those in arms, drugs, and wildlife.

My own project, whose staff includes Donna Yates (CAS'04), tries to trace antiquities from the ground in Cambodia, through the illicit and licit market, to their stopping point in private and public collections. I have spent a great deal of time in archives and libraries around the world, as well as in the field, talking to witnesses like the old woman at Angkor Wat. I am working with sociolegal criminologist Simon Mackenzie, the author of *Going, Going, Gone: Regulating the Market in Illicit Antiquities* (Leicester: Institute of Art and Law, 2005), and several invaluable colleagues in Cambodia, who must remain unnamed so as not to compromise their continuing efforts.

Cambodia, of course, is not unique, and neither is its recent history. From the beginning of recorded history—and well before, judging from the archaeological record—cultural heritage has been a casualty of war and theft. Antiquities, artworks, libraries, monuments, museums, and archaeological sites have been collateral damage, the unintended victims of indiscriminate attacks. They have also been the targets themselves, as marauding armies sought to destroy what was most irreplaceable and precious to their enemies.

These days, armed conflict provides both opportunities to loot and sufficient desperation to turn even lifelong residents into plunderers. In 2003, the looting of the Baghdad Museum resulted in the loss of an estimated 15,000 pieces, and that number pales in comparison to the hundreds of thousands of objects that archaeologists believe have since been pillaged from sites throughout the region. As Syria has been riven by violence, reports of antiquities trafficking have skyrocketed, as they have in Egypt, Libya, Mali, and Tunisia.

Some experts believe that organized criminal rings, in addition to traditional wartime profiteers, are involved in this illicit trade. At Trafficking Culture, we know that such large-scale and systematic pillage requires massive coordination and resources, as well as access to the overseas market. And we know that the shadowy world of organized crime can fulfill all these needs.

We also face some particular obstacles, such as a paucity of reliable empirical data about the looting and trafficking of antiquities, especially during combat. Nothing approximates the work on the wartime trade of diamonds, people, or timber, let alone arms and drugs. There are several reasons for this disparity, but

Last summer alone, Davis and her team covered 1,550 miles of highways and dirt roads to document the scars of looting.

the big one is that the illicit antiquities trade has long been treated as a white-collar and victimless crime. If it has been treated like a crime at all.

Trafficking Culture is trying to change that, but it's not easy. Looters leave few clues, and very often the only evidence of theft is an empty hole in the ground or an empty space on a temple wall. Calculating how many pieces have been stolen, by whom, and how is all but impossible. Seizures, arrests, and prosecutions—and the evidence they bring to light—are a gold mine of information. And few cases have more potential to reveal the inner workings of art thieves and smugglers than the battle over the Koh Ker warriors, which lasted nearly five years after Bourdonneau's discovery.



DIANE FLYNN

#### **SOTHEBY'S TO CAMBODIA: BUY THE WARRIOR OR FIND A WEALTHY DONOR**

On March 24, 2011, just hours before the Duryodhana was to go on the block at Sotheby's, the Cambodian government intervened. Madame Tan Theany, the secretary general of the National Commission for UNESCO in Phnom Penh, contended that the statue had been looted—noting that its feet remained in situ at Koh Ker—and demanded its return. Sotheby's refused. In the year of negotiations that followed, the auction house pressed Cambodia to buy the warrior or find a wealthy donor to do so. One such buyer did step forward, offering \$1 million, but Sotheby's wanted more.

Having studied at BU under Ricardo Elia (GRS'82), a College of Arts & Sciences associate professor of archaeology, one of the first scholars to investigate antiquities trafficking through Sotheby's catalogs, I'd made a habit of following the auction house's sales of Khmer art. I published some of this research in the criminology journal *Crime, Law and Social Change* in July 2011, coincidentally in the midst of the discussions about the piece between Cambodia and Sotheby's. My article expressed concern that 71 percent of Sotheby's Khmer auction items lacked any published ownership history or provenance. I also found that fluctuations in these sales could be linked to events, such as wars, that would have impacted the number of looted antiquities exiting Cambodia and entering the United States. To me that suggested an illegal origin for much of Sotheby's Khmer material. And not one artifact, of

at least 377 sold between 1988 and 2010, was shown to have entered the market legally.

Sotheby's responded swiftly. The auction house sent letters to me, my editor, and my publishers (to whom I will always be grateful for standing by me) demanding that I retract my statements. Sotheby's also spoke out in the press, lamenting, "It is sad to see a paper published in 2011 that can do no more than rehash identical allegations that were made around 20 years ago." Yet about that same time, Cambodia was enlisting the help of the US Department of Justice to recover the Duryodhana.

That news traveled around Cambodia fast, especially in archaeology circles, adding urgency to other work I was doing with the nonprofit Heritage Watch. For years we had been trying to launch a cultural heritage law database for Cambodia, and to this end had collected over 100 decrees, sub-decrees, and regulations. As we'd envisioned a practical (not historical) resource, we'd focused on current legislation. But because Cambodia wanted to recover statues looted before and during the war—like the Duryodhana—the laws in place before and during the war took on new relevance.

We knew there had been an extensive legal protection framework for cultural heritage in the colonial period and the early years of independence, as did anyone with even the most cursory knowledge of Cambodian archaeology. This was largely because in the 1920s, Frenchman André Malraux was arrested

and tried for pillaging the temple of Banteay Srei, a scandal that made international headlines. Given that Malraux went on to become his country's first minister of culture, and one of its most acclaimed novelists, this chapter of Cambodian history has not been forgotten (a popular restaurant at Angkor is even named for the affair).

By the beginning of the 21st century, however, most of Cambodia's intellectuals, including its archaeologists and legal experts, were long gone, having lost their lives in the Killing Fields in the late 1970s. Archives, libraries, and universities had been abandoned or razed. Cambodia's once-stellar cultural heritage management and legal systems were eradicated, along with direct knowledge of them. After the conflict, they were rebuilt, largely from scratch. The laws that once governed the country's archaeological sites and antiquities became antiques themselves.

In early 2012, I made a special trip to Cambodia, hoping to see if any of these documents had survived the war. I'd planned to spend a couple of weeks in Phnom Penh's old French quarter, leafing through the crumbling records of the National Archives (this cream-colored colonial building was probably under construction while Malraux was under house arrest just around the corner). But within just a few days, I found a trove of papers, enough to keep me busy (and likely will) for the rest of my career.

One important fact was immediately clear. Cambodia's ancient art had indeed been legally protected, and remarkably so, since 1900 at the latest. And these protections specifically covered Prasat Chen and its many statues by name.

The *New York Times* broke the Duryodhana story on Leap Day 2012 under the headline "Mythic Warrior Is Captive in Global Art Conflict." The front page featured the pedestal and feet still at Koh Ker, while another image showed the rest of the figure as it appeared in the shiny pages of the Sotheby's catalog. I was identified as the "scholar who dug out the law" on which Cambodia was basing its claim, prompting a chuckle from my former archaeology professors in Boston, who remembered when I'd wanted to make my name for another type of digging.

My colleagues and I hoped, even expected, that the publicity would ensure the Duryodhana's return. The *New York Times* had done its homework, presenting much convincing (albeit *then* circumstantial) evidence that the statue had been stolen during the early war years. Now that it was publicly branded a "blood antiquity," why would any reputable collector want to buy it? And even if one did, why would Sotheby's want to profit from such a sale?

#### **UNITED STATES V. 10TH CENTURY CAMBODIAN SANDSTONE SCULPTURE**

We were wrong. Instead of caving, the auction house doubled down, telling the *New York Times* that the Duryodhana "could have been removed any time in its thousand-year history," and noting the term "stolen" was often "used loosely." The US government disagreed, and on April 4, 2012, filed a civil forfeiture suit seeking to recover and repatriate the statue to Cambodia. This was an *in rem* action, meaning it was brought against the property itself, resulting in the somewhat odd name of *United States v. 10th Century Cambodian Sandstone Sculpture*.

Bolstered by a series of insider emails, *United States v. 10th Century Cambodian Sandstone Sculpture* revealed that Sotheby's had been warned by the very scholar it had hired to authenticate it that the statue was "definitely stolen." The expert urged the owners to "offer it back to the National Museum of Cambodia as a gesture of goodwill," in order to "save everyone some embarrassment."

On November 11, 2012, the US government amended its complaint to reveal allegations that the Duryodhana as well as its twin, the Bhima, in California were both stolen around 1972—just two years after fighting erupted between the Cambodian government and the Khmer Rouge—and then trafficked as parts to Thailand. From there, they entered the very heights of the international art market, eventually making their way through Europe to the United States. The journey was detailed in newly discovered files at an auction house

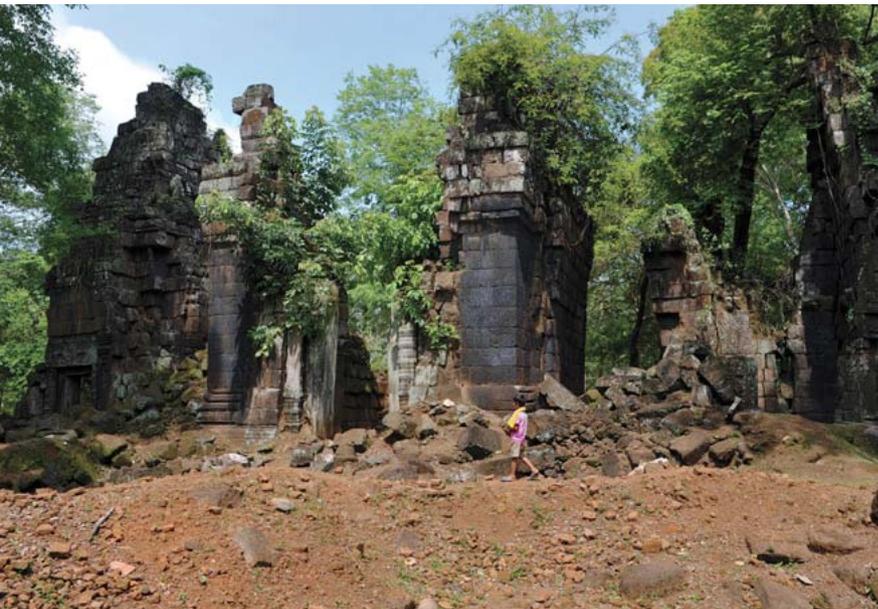
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## A CITY LOST IN TIME

Koh Ker, a remote archaeological site dating from the 10th century, has more than 180 sanctuaries spread over 31 square miles.



In more than 10 years of work in Cambodia, Davis has yet to visit a single temple that has not been looted.



of this action would be burdensome,” and so they “voluntarily determined” to transfer it to Cambodia. The US Attorney’s office withdrew allegations that the auction house had tried to mislead anyone about the statue’s provenance and that it had known of its disputed provenance before importing it.

In May, the *New York Times* reported an exciting development: the Norton Simon Museum had agreed to repatriate the Bhima. The *Times* also revealed that Christie’s had quietly recovered yet another of the Prasat Chen sculptures, the Balarama, in order to return it to Cambodia.

On June 3, a decade of efforts of a great number of people was rewarded when Cambodia held another ceremony in Phnom Penh, this one to

that had put the pieces on the market decades earlier.

The *New York Times* and the *Los Angeles Times* identified another five pieces allegedly looted from Prasat Chen, perhaps at the same time and by the same people. All were on display in prominent American museums. Cambodia quickly called for their repatriation and had its first success on June 29, 2013, when New York’s Metropolitan Museum of Art voluntarily returned two of the statues to Phnom Penh.

I was honored to attend the ceremony in Phnom Penh welcoming home the pair from the Met. Finally reunited with their massive pedestals by the dedicated conservators at the National Museum of Cambodia, and dressed in jasmine garlands, they commanded attention. Even Prime Minister Hun Sen bowed to them upon entering.

The fight for the Duryodhana continued for another six months, with accusations lobbed by both sides. Sotheby’s claimed that US agents and attorneys had been overzealous in their investigation and prosecution, and the government claimed that the auction house had provided it with false and misleading information. As Jason Felch, then of the *Los Angeles Times*, said, “The gloves had come off.”

On December 13, 2013, when the case finally seemed headed for a contentious trial, the parties settled. The agreement stated that Sotheby’s and the Duryodhana’s seller had “a good faith disagreement” with the United States regarding whether Cambodia owned the statue, but “further litigation

celebrate the return of the Duryodhana, the Bhima, and the Balarama. I was among the celebrants, along with Cambodian Deputy Prime Minister Sok An, Secretary of State Chan Tani, the stone conservator Simon Warrack, the archaeologist Eric Bourdonneau, and Anne Lemaistre, head of UNESCO Phnom Penh. Cambodian dancers greeted the statues, scarred with chisel marks, with a shower of jasmine blossoms, and representatives of the Norton Simon and Christie’s expressed pleasure at having aided their return. Sotheby’s, as the *Cambodian Daily* reported, “was notably absent.”

During that decade, my colleagues and I have documented many scars from Cambodia’s plunder-desecrated tombs, beheaded statues, and ransacked temples. Last summer alone, our team covered some 1,550 miles of highways and dirt roads. We now believe that Ta Mok, a famously violent senior Khmer Rouge leader known as the Butcher and Brother Number Five, may well have played a personal role in the removal of ancient statues from Koh Ker; that likelihood supports the notion that looted Khmer objects at museums around the world should be considered blood antiquities. And in all this time, I have yet to visit a *single* temple in the country that has not been a victim of looting. I don’t know anyone who has. ■

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