

Report by Myanmar
on the Implementation of the 1970 Convention on the Means of
Prohibiting and Preventing the Illicit Import, Export and Transfer of
Ownership of Cultural Property

I. Information on the implementation of the UNESCO Convention of 1970

1. Ratification of the Convention

Myanmar ratified this convention on 5 September 2013.

2. Implementation in the national legal system and in the organization of services

(a) National regulations

The following laws have been enacted for the sake of Myanmar cultural heritage preservation and the Ministry of Culture is undertaken the tasks concern with those acts for preservation of historical buildings and antiquities:

- (1) **1957 Antiquities Act** - This Act consists of 28 articles including transferring of antiquities can be done only under the order of the President of the State and the receipt and preservation of antiques, purchasing of antiquities by using force, illicit transfer and illegal trafficking, penalty and actions that can be taken are mentioned.
- (2) **1962 The Amendment Law for 1957 Antiquities Act** - In this Act, the wordings and phrases which are not relevant to the present system and some changes on penalty and charges are amended.
- (3) **The Law on Protection and Preservation of Cultural Heritage Regions** - This law is prior for preservation and protection of cultural heritage regions and penalty and limitations are drawn in accordance to the present situation. (1998)

The laws concern with the ownership of antiquities and trading, prevention of illegal transfer and illicit trafficking are now updated and amendment is under process.

(b) The definition of "Antiquities" is used by the national law: 1957 Antiquities Act.

(c) Archaeological Section and Excavation, Antiquities , Epigraphy and Excavation Unit are established under the Department of Archaeology and National Museum, Ministry of Culture to prevent and combat trafficking and ensure international cooperation for the protection of cultural heritage.

(d) Activities of Unit

Under the guidance of the Ministry of Culture, the staffs from those units are promoting the awareness raising on return of the antiquities if they are found out and any means, persuading those who can give information, making Surveys, cooperating with related departments under other ministries.

The actions are being taken with the collaboration of the Security Forces at the Toll Gates of borders, airports, jetty, motorcar gates and railway stations. Those searching and investigation are made necessarily and seized antiquities are being handed over to the ministry.

With the collaboration of the local administrative bodies in respective townships, NGOs , religious and social organizations, the awareness of handing over of antiquities are promoted and people who hand it over are given cash awards.

The data collection of those who collect antiquities and also the shops which sell and trade antiques are recorded. The local brokers make a deal with those antique collectors who are eager to buy antiquities illegally. Nowadays, the antique shops which sell fine arts, arts and crafts have created many replicas of the antiquities designs and it is hard to identify which are the genuine ones. Taking this advantage, authenticity of the antiquities has been easy to be fraud. The tourism and the related issues with illicit trafficking and illegal transfer of antiquities and those antique shops are being monitored and taking actions. The awareness raising of how actions can be taken for those traffickers and dealers are also made, by giving lessons and warnings occasionally.

The recommendation of the Archaeological Section which testifies whether antiquity is authentic or not, has to issue certification for those artistic items and handicrafts that are transferred locally and taking abroad. Those staffs who are taking charge of this process are being trained for skills development. There has been some precedence on detecting and find out the truth after testing whether they are genuine antiques. Those which are genuine antiquities are purchased from them and are given award and collected at the office.

(e) Nil

3. Inventories and identification

(a) Inventories are an essential part in running an efficient department or system. Inventories provide detailed insight into the quantity and quality of department's holdings, enabling to schedule maintenance projects and develop budgets more effectively. In addition, inventories provides valuable data and information that will allow to determine if an item is on display and whether an item is current and in good condition, and insight into the item's status and whether the status is accurate or not, and to identify any losses, and it will also facilitate the monitoring of the collections. Better inventories will reduce the risks of misappropriate and theft.

(b) The definition of " cultural property" at the national level is meant movable and unmovable cultural heritage include cultural objects/ antiquities, sites, monuments, places that people create or collect and forms an important part of a nation's identity such as importance for archaeology, prehistory, history, literature, arts or science. Myanmar has not yet identified "national treasure" in a specified list.

(c) All collections are registered by using own standard registration form.

(d) CCTV Security System is set/ installed in selected museums and libraries, and security staffs are assigned to combat theft.

4. Archaeological excavation

(a) – The Department of Archaeology and National Museum, Ministry of Culture is responsible for the management of all archaeological sites and excavation in accordance with the existing legislations.

- A person desirous of carrying out archaeological excavation shall abide the provisions of other existing laws and also apply to the Department in accordance with stipulations to obtain prior permission under laws.

- The Department shall, after scrutinizing the application submitted under section 13 in accordance with the stipulations, submit the same to the Ministry of Culture with the remark of the Department.

- The Ministry of Culture may, in respect of the matter contained in section 13 grant or refuse permission after scrutiny.

- When permission is granted under sub-section (b) the Department shall issue the permit to the applicant together with the conditions to be observed.

And monitoring is made with the cooperation of local administrative bodies.

(b) Nil

5. Monitoring of the export and import of cultural property

(a) (b) Since we do not have any up-to-date statistics because there is no case on the theft of cultural property owned and taken care by the Ministry. But, local pagoda trustees have to face the theft of cultural property, and for that case, number of thefts have been reported to police department as crime, and the reasons such as lack of financial and human resource, and lack of security system can cause and lead the theft of cultural property.

(c) Main rules for monitoring the export of cultural property is existence of an export certificate. The categories of cultural property are covered by the rule are fossil , animal bone, sculpture, coins, charms, epigraphy, palm-leaf and folded paper , parchment, metal, stone, mud, wood carving, cloth, Buddha image and statue, paintings.

(d) The laws do not provide for the restitution of illicitly imported cultural property.

(e) Main obstacles encountered in securing the restitution of illicitly exported cultural property are administrative, lack of data collection, lack of international cooperation, late of ratification of 1970 Convention and implementation of convention.

(f) Stolen cultural objects

– 5 Pyu era objects

In early 1967, archaeologist U Sein Maung Oo was excavating a mound near Payama Pagoda in Srikshestra when he made an amazing discovery: five small bronze figures and an ornately moulded bronze bell.

The five Pyu-era statues, four of which were stolen shortly after they were unearthed in early 1967. Clockwise from top left: A cymbal clapper, dancer, flute player,

comedian and drummer. The figurines were returned in 1983 by an American collector after intervention from the First Lady Nancy Reagan.

- Buddha Image from Kyaukku U Min Temple, Bagan

Eleven century Buddha image was stolen from Kyaukku U Min temple in Bagan in 1989. It subsequently re-surfaced in Bangkok, to be acquired there by an art dealer who then transported it to USA where it next reappeared in New York in the 1991 Sotheby's catalogue. Several concerned readers then recognized the Buddha image's provenance and altered Sotheby's , which withdrew it from the schedule sale. At that time the Myanmar Embassy in Washington ; U Nyunt Han, then Director General of the Department of Archaeology; and Dr. Richard Cooler , now professor Emeritus at Southeast Asian Art History at NIU, were all dully informed.

Professor Cooler was then founder – Director of the Center for Burma Studies; the only such result institute in the world. He and one of his graduate students, Jack Daulton , now a lawyer at Chicago, decided to demonstrate that this exceptional piece originated from that specific temple in Bagan, and was the rightful property of the Union of Myanmar.

Those inquires led towards a three year legal process and also to considerable research in Bagan in order to definitively demonstrate that the object listed by Sotheby's was indeed the stolen Kyaukku U Min Buddha image. Finally, in 1995, a court in New York agreed that the statue's sole ownership was the Union of Myanmar. Then it was sent to the Northern Illinois University to be centered piece of a year- long exhibition mounted in 1996.

NIU was willing to return this Buddha image, and finally pursuant to the 1970 UNESCO agreement, as the Myanmar Ambassador to UNESCO took possession of the Kyaukku U Min Buddha image under full diplomatic protection, and will recognized thereafter the appropriate and safe return of this piece to the Union of Myanmar.

6. System for trade-in , acquisition, ownership and transfer of cultural property

- (a) There is no legal market for cultural goods in Myanmar but the illegal market for looted objects. The looted objects may be ascribed as a very tiny gold bead to a large Buddha image, which are not being deal and sold in the country market like auction or antiquity-shop, taken away to abroad. Therefore many of cultural goods are caught in border trades by members of custom and police.
- (b) When the antiquities and cultural artifacts caught it has to provide with law and act. In Myanmar there had been enacted the Antiquities Act in 1957, it can be

governed and controlled the smuggling and theft of all means of antiquities. The Act was actually based on the manual guide lines of the Indian Antiquity Law and others as the Department of Archaeology which was began since 1902 while the country was colonized by British-Indian Government. But now a day the Department of Archaeology and Ministry of Culture have being tried out the amendment on Antiquities Act.

- (c) Myanmar is actually rich in cultural property but still needs effective sustainable action among the community and inter-departments. It indirectly creates more or less loss of cultural property beyond the situation of existing within the country's boundary. On the other hand there was less practice of establishing private museum. Therefore the acquiring cultural property exported illegally from other States and areas may not be found in Myanmar.
- (d) According to the Article 8. of Antiquities Act, 1957 the cultural items found by chance or excavations of legal or illegal and concerning ownership of cultural property has to inform the authorized person. If whoever fails to comply shall be punishable that is the rules to govern and cover ownership of cultural property, stable in original place, transfer of respect of cultural property.
- (e) The Department of Archaeology and National Museum has carried out the draft of amendment of Antiquities Act 1957, to be regulated with the current situation and to add modifications and general amendment. Then, the Ministry of Culture will present it to Parliament and legislative body for the approval of Antiquity Law Amendment.

II. Code of ethics, awareness raising and education

Ethical standards

(a) -

Awareness raising and education

(b) -

(c) -Under the guidance of the Ministry of Culture, the staffs from its departments in states and divisions are promoting the awareness raising on return of the antiquities if they are found out and any means, persuading those who can give information, making

Surveys, cooperating with related departments under other ministries.

-With the collaboration of the local administrative bodies in respective townships, NGOs , religious and social organizations, the awareness of handing over of antiquities are promoted and people who hand it over are given cash awards.

III. Cooperation with other international and regional agencies

- (a) MNCCC (Myanmar National Culture Central Committee) should have agreement with Ministry of Home Affairs to link INTERPOL
- (b) After the National Cultural Property Registration or database had been made, it should be known to INTERPOL for any checkable.
- (c) Myanmar Police Force may have or have not yet the special programme or training in case of cultural property illicit trafficking
- (d) The fraud and theft related to cultural property allow the punishment

European Union - NIL

IV. Emergency situations and heritage at risk

(a) Drawing Disaster Management Plan

(b) Nil

V. Other legislative, legal and administrative measures taken by the State

1. Accession to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

(a) Not yet

(b) Not considering ratification in the short term.

2. Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation

Nil

3. UNESCO Database of National Cultural Heritage Laws

Nil

Measures taken at the National Level

Preventive Measures

The preservation of the ancient cultural heritage has been undertaken by the government as a national task and also mandated in the Four Social Objectives of the State. One of it has been focused on "to upgrade national identity and preservation of cultural heritage and national characteristics" and this shows clearly that how cultural heritage preservation is being prior. The Ministry of Culture itself is carrying out the tasks related to the preservation, conservation, excavation and dissemination of cultural heritage by expanding large amount of state budget annually. Moreover, series of cultural heritage protection and preservation works are given high prior and attention by the state in various ways: the establishment of 'Myanmar Cultural Heritage Preservation and Dissemination Committee' formed in 1990s, participation with UNESCO and its commitments for Conventions, participation with ASEAN member countries, Excavation and exploration of ancient cities and palaces, renovation of ancient pagodas, excavations of ancient mounds, demarcation of cultural heritage zones.

Enacting of Laws

The following laws have been enacted for the sake of Myanmar cultural heritage preservation and the Ministry of Culture is undertaking the tasks concern with those acts for preservation of historical buildings and antiquities:

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The laws concern with the ownership of antiquities and trading, prevention of illegal transfer and illicit trafficking are now updated and amendment is under process.

The Return of cultural properties by dutiful citizens

Under the guidance of the Ministry of Culture, the staffs from its departments in states and divisions are promoting the awareness raising on return of the antiquities if they are found out by any means, persuading those who can give information, making surveys, cooperating with related departments under other ministries.

Seizure and handing over by Security Force

The actions are being taken with the collaboration of the Security Forces at the Toll Gates of borders, airports, jetty, motorcar gates and railway stations. Those searching and investigation are made necessarily and seized antiquities are being handed over to the ministry.

Collection made by giving Cash Rewards

With the collaboration of the local administrative bodies in respective townships, NGOs , religious and social organizations, the awareness of handing over of antiquities are promoted and people who hand it over are given cash awards.

Observation and under-watching on Antiquities shop and collectors

The data collection of those who collect antiquities and also the shops which sell and trade antiques are recorded. The local brokers make a deal with those antique collectors who are eager to buy antiquities illegally. Nowadays, the antique shops which sell fine arts, arts and crafts have created many replicas of the antiquities designs and it is hard to identify which are the genuine ones. Taking this advantage, authenticity of the antiquities has been easy to be fraud. The tourism and the related issues with illicit trafficking and illegal transfer of antiquities and those antique shops are being monitored and taking actions. The awareness raising of how actions can be taken for those traffickers and dealers are also made, by giving lessons and warnings occasionally.

Testing authenticity of the antiquities

The recommendation of the Archaeological Section which testifies whether antiquity is authentic or not, has to issue certification for those artistic items and handicrafts that are transferred locally and taking abroad. Those staffs who are taking charge of this process are being trained for skills development. There has been some precedence on detecting and find out the truth after testing whether they are genuine antiques. Those which are genuine antiquities are purchased from them and are given award and collected at the office.