

Approval Thesis Summary

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**THE STRATEGY OF CAMBODIA FACING PREAH VIHEAR TEMPLE ISSUE WITH
THAILAND AFTER THE CASEFIRE IN 2011**

UNDERGRADUATE THESIS



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THE STRATEGY OF CAMBODIA FACING PREAH VIHEAR TEMPLE ISSUE WITH THAILAND AFTER THE CASEFIRE IN 2011

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Abstract

This research is aimed to understand the strategy of the Cambodian government in ending the Preah Vihear temple dispute with Thailand in 2011. Preah Vihear is a monument founded in 11th century by the old dynasty ruling the region. The temple became a disputed monument when both Thailand and Cambodia claimed to be the legacy of the old kingdom and both claimed to be legitimate ownership of Preah Vihear.

Data are collected using library research method. Using a qualitative research method, it is found that the strategy used by Cambodian government is by using diplomacy, both preventive diplomacy before 2011 and multilateral diplomacy through ASEAN as the regional organization and ICJ in the international scope.

Keywords: Preah Vihear dispute, Cambodia, Thailand, Diplomacy

Cambodia is a monarchy constitutional country that resides in the Southeast Asia region and also the member of ASEAN since 1999 and became the tenth member of that regional organization.¹ Cambodia geographically is located in the Southeast Asia peninsula and shares border with Thailand in its western part. An area called Preah Vihear in the Dangrek Mountain area is the direct natural border between these two states. This area is an area where a complex of Hindu ancient temple stands name the Preah Vihear Temple. This had been a dispute between both states even when

¹ "ASEAN and History of Cambodia's Membership" (Law Teacher) <<https://www.lawteacher.net/free-law-essays/international-law/asean-and-history-of-cambodias-membership-international-law-essay.php>> accessed May 25, 2017.

Cambodia was still under occupation of French and Thailand was also still in the form of a kingdom called the Siamese Kingdom.²

Preah Vihear Temple stands in a 4.6 km² area in the top of the Dangrek Mountain consist of hundreds of ancient temple sites age for at least 900 years. Preah Vihear began to build in the late 8th century during the rule of King Yasovarman I and finish its building the late 11th centuries. The main purpose of this temple is a dedication for Shiva, an ancient Hindu god for the people around the area of the temple. And in 1962, International Court of Justice awarded to Cambodia for the ownership of the temple and the area surrounding it.³

Both Cambodia and Thailand wanted to lay their legitimacy over Preah Vihear because of three main factors. First, it symbolizes the cultural and religious identity of both Cambodia and Thailand since both countries are the descendant of Khmer Empire and Buddhist majority country. Second, due to that fact, Preah Vihear was used by both countries to build national identity. Therefore, losing Preah Vihear claim meant losing as a nation. Third, economically both countries wanted to extract tourism profit from people visiting the temple.

Based on the Map that was drawn by French back in 1904 when French still occupied Khmer that is now known as Cambodia, the government of Cambodia claimed that the temple was under the sovereignty of Cambodia. On that Annex I map, the border followed the watershed lines. These watershed lines are in fact the highest part of the mountain that is intangible that become a gap of the river flow from the opposite direction.⁴

Based on Annex I Map that was used by the International Court of Justice in 1962 in the problem solving, the Preah Vihear Pagoda is 700 meters inside the territory of Cambodia, but the government of Thailand stated that Cambodia violated by claiming the area that becomes the territorial sovereignty of Thailand.⁵

Four years later, French revised the 1904 map and drew a new map called Annex II map (1907) and given to both states. But the government of Thailand didn't give any

² Tours AT, "Recommendations:" (Cambodia Geography) <<http://angkor-travels.com/html/cambodia.php>> accessed May 25, 2017.

³ Vivath C, "Preah Vihear Temple Cambodia" (Preah Vihear Temple | History of Preah Vihear Cambodia) <<http://www.asiavipa.com/preah-vihear>> accessed May 29, 2017.

⁴ "International Court of Justice" (International Court of Justice) <<http://www.icj-cij.org/docket/index.php?sum=284&p1=3&p2=3&case=45&p3=5>> accessed May 29, 2017.

⁵ *Ibid.*

response or clear objection about the map, and so that the Preah Vihear Temple legally under the sovereignty government of Cambodia.

Both states were not on the same page about the decision of the International Court of Justice back in 1962 in Case Concerning Preah Vihear Temple. Even the majority of the judges (9 of 12) decided that Preah Vihear is in fact inside the territory of Cambodia (based on Annex I map) and Thailand must withdraw its military forces, and sadly the government of Thailand did not accept this decision.

The problem kept continuing in 2008 as the United Nations Educational, Scientific, and Cultural Organization (UNESCO) agreed on the proposal of the government of Cambodia to list the Preah Vihear Temple as International Heritage Sites. This decision was not accepted by the government of Thailand. The problems later come out the surface after the decision of UNESCO.⁶

The decision of UNESCO to award the Preah Vihear Temple as International Heritage Sites and legally acknowledge that the Preah Vihear Temple was under the sovereignty of Cambodia was not accepted by the government of Thailand and also the people. The protesters from Thailand demonstrated in the disputed area in July 2008, resulting three Thai protesters were arrested for jumping a barbed-wire fence in an attempt to reach the temple. This action later prompted both states to build military forces around the border.⁷

Since then, both sides involved in some military contact. Recorded in August 2008 both sides exchanged fire briefly, resulting one Cambodian injured. Two months later, in October 2008, Thailand accused Cambodia of planting mines around the border that later exploded and injured two Thai soldiers. Only 8 days delayed, on October 15th one Thai soldier and three Cambodian soldiers died because of the clash at the border. And it continued and culminated in 2011 when military troops of both sides exchanged heavy fire for over four days where at least six people remained dead.⁸

This conflict had become a domestic commodity for both states. And solving this dispute seemed quite hard for the government of Cambodia to since both states have different perceptions and policy concerning the solvent of this dispute. The government

⁶ Centre UNESCOWH, "Temple of Preah Vihear" (UNESCO World Heritage Centre) <<http://whc.unesco.org/en/list/1224>> accessed May 29, 2017.

⁷ "Thailand Cambodian clashes: timeline" (The Telegraph February 7, 2011) <<http://www.telegraph.co.uk/news/worldnews/asia/cambodia/8308298/Thailand-Cambodian-clashes-timeline.html>> accessed May 29, 2017.

⁸ *Ibid.*

of Cambodia preferred to solve the dispute by involving the third party or International Organizations. Unlike Cambodia, the government of Thailand that had an internal problem between the Foreign Ministry Department and Department of Defense in determining their foreign policy regarding the Preah Vihear Temple issue. But the strong military drive behind of its Department of Defense, the government of Thailand rejected the intervention of third parties. And remember back to its loss in 1962 in the International Court of Justice, the government of Thailand seemed to willing to solve this problem only in the bilateral way.⁹

The different perceptions between those two states made the problem kept continue until 2011 and it became a serious challenge for the government of Cambodia the claim what became her right.¹⁰ In fact, there were some past actions that the government of Cambodia took to resolve the dispute, namely the establishment of joint-border committee with Thailand in 2000 and joint-committee for the registration of the temple to UNESCO. The government of Cambodia did seek for help from the international organization such as the United Nations to help to solve this dispute. Not only to the United Nations, but also the Association of Southeast Asian Nation (ASEAN) since both states are under ASEAN organization.¹¹

History of Preah Vihear

Preah Vihear Temple or Phnom Preah Vihear (Sacred Hermitage Mountain) is a temple complex with triangular structure. The temple is constructed from laterite, sandstone, and brick that were taken from quarries in Phnom Kullen (south of the country) and transported to the Dangrek Mountains by oxen and elephants and thousands of workers.¹² People can come to the temple via paved road from Thailand or stone road from Cambodia, which sometimes cannot be used in rainy season. The temple is divided into three levels and five gopuras. Gopuras are like gateways separating the different parts of the temple. In the southernmost side, there is a Central Shrine and Prasat which has a Buddhist temple honored by both Thais and Cambodians.

¹⁰ Mydans S, "Cambodia Asks U.N. to Act amid Clashes with Thailand" (The New York Times February 6, 2011) <<http://www.nytimes.com/2011/02/07/world/asia/07thailand.html>> accessed May 29, 2017.

¹¹ "Historic Firsts: ASEAN Efforts on Cambodian-Thai Conflict Endorsed by UNSC" (ASEAN February 1, 2016) <<http://asean.org/historic-firsts-asean-efforts-on-cambodian-thai-conflict-endorsed-by-unscc/>> accessed May 28, 2017.

¹² Bryan K. Wong, "Temple Wars: Cambodia's Dispute Over Preah Vihear Ownership And Its Effects On National Power", *Air University Research Report*, 2013, p. 4

According to the historical record, Preah Vihear temple was first built in the 9th century. At that time, the temple was dedicated to Hindu God Shiva, in His form of Sikkhavesvara and Bhadesvara. Most of the temple characteristics were from the reign of Suryavarman I (1002-1050) and Suryavarman II (1113-1150). Some inscriptions give the detailed report about Suryavarman II studying sacred rituals and festivals in Preah Vihear.

This temple is located on a 525 m tall cliff in Preah Vihear province, Cambodia and Sisaket province, Thailand. The temple is unlike common temples which face east, Preah Vihear faces north to Thailand and was built on the north-south 2,600-foot axis. The temple was built to represent the greatness of mythical Mount Meru, home of Shiva and other Hindu Gods and to replicate the greatness of Angkor Wat, not architecturally but functionally. It also functioned as the mark of the Khmer Empire border, culture, religion, and influence.¹³

The first stage of construction began in the late 9th century under the reign of King Yasovarman, one of the kings of Khmer golden era. During this time, the Khmer Empire was a strong kingdom, having influence and tribute from the surrounding region including Thailand.¹⁴ Yasovarman intended to build temples to honor his parents, and so he ordered a temple to be built on a natural hill as a foundation. However, Yasovarman had died before the construction was finished.

The construction was continued by seven kings for 300 years. Only during the reign of King Suryavarman II, the Preah Vihear temple was completed. King Suryavarman was a religious king, but unlike the previous kings of Khmer Empire, he worshipped Theravada Buddhism. Thus, although originally meant to be a Hindu temple by King Yasovarman, Preah Vihear was then dedicated for Buddhism.¹⁵

The influence and power of Khmer Empire declined in the 12th century when the Thai Empire came to be the now power in the region. Apparently, the Thai Empire began to absorb Khmer and through social and cultural assimilation, Thai saw themselves as the heir and legacy of the great Khmer empire. Angkor Wat and Preah Vihear also fell under Thai control. Buddhism also became more dominant and finally,

¹³ Brendan Borrel, "The Battle Over Preah Vihear" (Archeology: A publication of the Archaeological Institute of America February 11, 2013) <<https://www.archaeology.org/issues/83-1303/letter-from/547-preah-vihear-cambodia-thailand-khmer-temple>> accessed March 21, 2018.

¹⁴ David P. Chandler, *A History of Cambodia*, Boulder: Westview Press, 2000, p. 29.

¹⁵ Karen Faye D'Souza and Shreya Sarkar, *Cambodia and Laos*, New York: Dorling Kindersley Publishing, 2011, p. 94.

the site of Preah Vihear was gradually abandoned following the Dark Age of Cambodia.¹⁶

The first investigation of Preah Vihear after it was abandoned was done by French colonial. In 1883, the French explorer and archeologist Étienne Aymonier discovered the temple and gave a detailed information about the temple and the inscription on the temple. However, there was little to no preservation of the temple after being discovered, even when France and Thai made an agreement on the border demarcation. Only until 1924 when Henri Parmentier from École française d'Extrême-Orient (French School of the Far East which focuses on Asian Studies based on Archaeology) visited the temple and conducted clearance and restoration in 1929. The École française d'Extrême-Orient is still operating now in Siem Reap, Cambodia, focusing on the restoration of Khmer temples with the cooperation from Cambodian Ministry of Culture.¹⁷

In 1904, Siam and France formed a joint commission to decide the border between Thailand and Cambodia, following the watershed line of the Dânggrêk mountain range and placing all of Preah Vihear temple inside Thailand. The map was drawn in 1907 by the French after survey and later called Annex I for the case in ICJ. The survey and the drawing were done by the French because Thailand was unable to do it due to lack of technical capacity.¹⁸ However, the map was apparently different from the agreement, showing that the border is slightly moved from the watershed line, thus making Preah Vihear inside Cambodia. The local legend said that the cartographer was distracted by champagne and girls while making the map, resulting in the deviation.¹⁹ Nevertheless, Thailand just accepted the map and never complained until they found the mistake while conducting their own survey in 1934.²⁰

The war between Thailand and Cambodia/France (puppet government of Germany during World War) broke out in 1940-1941. This resulted in Thailand taking many parts of Cambodia, including Preah Vihear. However, after World War II ended, France (free from Germany) took back Cambodia from Japan and Axis power. The

¹⁶ Paul Grams Robinson, "UNESCO and the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution", *Master Thesis*, The American University of Paris, 2013, p.24.

¹⁷ "The Siem Reap Centre Cambodia," (École française d'Extrême-Orient, March 2013) <<http://www.efeo.fr/base.php?code=217>> accessed March 17, 2018.

¹⁸ Robinson, "UNESCO and the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution", p. 26-27.

¹⁹ "Cambodia and Thailand; The center of the world fall," *The Economist*, May 31, 1975, p. 41.

²⁰ Shane R. Strate, *The Lost Territories: The Role of Trauma and Humiliation in the Formation of National Consciousness in Thailand*, 2009, p. 211

treaty of Washington in 1946 stated that the border must be returned to prewar status, making Thailand return the area taken during the war in 1940-1941. This made Preah Vihear was given back to Cambodia, although the de facto controller was still Thailand with its presence of temple caretakers in Preah Vihear because France was busy fighting with Vietnam.²¹

When Cambodia got independent in 1953, Sihanouk began to discuss the issue of Preah Vihear. In February 1954, the Cambodian government began to ask about the current Thai nationals occupying the temple area. The issue created very little discussion because at that time it seemed unimportant due to instability and turmoil in surrounding regions, so the Cambodian government had to face other more important issues. Only after 1956 when Thailand built police border post and raised Thai flag in Preah Vihear that the dispute began to emerge as an important issue in Cambodia-Thailand relation.

Preah Vihear Dipute Between Cambodia and Thailand

Both Cambodia and Thailand claimed Preah Vihear for its religious, cultural, and territorial importance. Both countries are Buddhist majority population, and Preah Vihear symbolizes the center of Buddhist worship and legacy in Indochina. For Cambodia, though, it is more than a religious place because they see Preah Vihear as an icon of “ancient cultural grandeur of the Khmer Empire.”²² The temple is viewed as a representation of Khmer identity, a reminder that for centuries Khmer was dominating power in the region before falling and being taken by foreign powers of Thailand, Vietnam, and eventually France. Therefore, claiming the temple for Cambodian very important, and they see the current dispute as for the way of Thailand to "steal Cambodian territory and destroy Khmer identity."²³

For Thailand, Preah Vihear is also important for nation building. During the 19th century, the Thai government was focusing on "nation-building from above" to develop a single idea of the Thai nation and assimilate various ethnics within Thailand.²⁴ Therefore, ‘losing’ territory of Preah Vihear is not something that the government

²¹ Michael Leifer, *Cambodia: The Search for Security*, New York: Praeger, 1967, p. 85-86.

²² Helmut K. Anheier and Yudhishtir Raj Isar, *Cultures and Globalization: Heritage, Memory and Identity*, London: Sage Publications, 2011, p. 149.

²³ Ibid.

²⁴ Ibid.

would tolerate because territory, religion, and monarchy are the three foundations of manifestation of Thai nationalism. The better access to the temple is also on Thailand's side, making it seem that Preah Vihear was indeed built for Thailand.

Pragmatically, the issue of Preah Vihear dispute was also used to support political interest in Cambodia. In the years following independence, Sihanouk used the issue of Preah Vihear to gain support from the people. Since he was placed in the throne by France, his kingship and leadership were in question. Therefore, to make people believe in him and to distance himself from colonial ties, Sihanouk campaigned for the legal ownership of Preah Vihear belonging to Cambodia. However, this practice was not seen in Thailand because in all levels of Thai society they have the same perspective on the issue. No matter what the regime's policy about Preah Vihear, the people believe that the issue of Preah Vihear is important and that Preah Vihear should belong to Thailand.

The relation between Cambodia and Thailand is not always peaceful and stable. In fact, history saw the fluctuation and dynamics of the relation between these two Southeast Asia countries. This is caused by the continuous change of regime in both states. In Cambodia, as we have seen in chapter II, the regime has changed many times since Cambodian independence in 1953: from the constitutional monarchy, republic, communist state, foreign-backed socialist state, and back to constitutional monarchy again. A similar change also happened in Thailand, with about 18 military coups since 1932, although the monarchy remains intact. Therefore, in the past decade's fluctuations and changes in the relationship is something common, and many parts of the relation are hostile ones.²⁵

This dynamic and clashes in the relationship are so unique and surprising since both Cambodia and Thailand share similar customs, traditions, beliefs, and ways of life in the form of royal customs, language, writing systems, vocabulary, literature, and the dramatic arts. Kasetsiri²⁶ explained that this relation happened the way it was because of “ignorance, misunderstanding, and prejudice”.

During World War II, most of the Southeast Asia regions were under Japanese control. Despite its abuse and harsh colonization, Japan provided more opportunity for nationalism to rise, especially in the form of anti-western imperialism. This condition

²⁵ Sok Udom Deth, “Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations, 1950-2014”, *dissertation*, Universität zu Berlin, 2014, p. 18

²⁶ Charnvit Kasetsiri, “Thailand-Cambodia: A Love-Hate Relationship,” *Kyoto Review of Southeast Asia*, 3, March, 2003.

happened also in Cambodia and Thailand.²⁷ In Thailand, the government signed a non-aggression pact with Japan, stating that Japan can place the army in Thai territory while Thailand will have Japanese cooperation and support. This made Thai had an opportunity to attack Cambodia for territory and resulted in Thailand-Cambodia War 1940-1941, the first open conflict of Cambodia-Thailand upon border dispute. The war was then mediated by Japan to end, and resulting in France giving Battambang province and Siem Reap to Thailand. Since the end of Thailand-Cambodia War in 1941, Thailand had still stationed troops in Preah Vihear. Although in 1949 France protested, the presence of Thai army remained in the area until Cambodian independence.²⁸ However after the World War II ended, this treaty was not in effect anymore because Japan had lost the war, so the provinces were returned to Cambodia.

In 1950, United States recognized Cambodia as an autonomous state within the French Indochina Union. This time, Thailand also recognized Cambodian self-realization of nationalism, and so Thailand became the first Asian country to acknowledge Cambodian nationalism. This marks the beginning of a relatively peaceful period of Thailand-Cambodia relation because both countries have common opposition, France. But, the relation was not fully supportive to Cambodia as Thailand secretly also supported a rebel-like Free Khmer movement, which was also against Cambodia. This was because Free Khmer did not believe in diplomacy and preferred to use violence to gain independence from France. While traveling for campaigning Cambodian independence, King Sihanouk visited Thailand. Surprisingly, Thailand seemed uninterested in supporting Cambodian independence, mainly because Sihanouk's campaign was seen as too aggressive and provocative.

After gaining independence in 1953, King Sihanouk abdicated as a king, giving the throne back to his father, and becoming more active in politics (as the king only hold limited and ceremonial power in Cambodia). Sihanouk's party the "People's Socialist Community" won heavily in 1955 election. Some noted this as the beginning of Cambodia-Thailand relation worsening because Thailand believed that Sihanouk viewed Thailand as an old enemy of Khmer and Cambodia, always wanting to absorb Khmer land in Thailand.

²⁷ Nicholas Tarling, *A Sudden Rampage: The Japanese Occupation of Southeast Asia, 1941-1945*, London: C. Hurst & Co. Ltd., 2001.

²⁸ Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations, 1950-2014", 2014, p. 51

The case of relation worsening was also worsened by the actions of Thailand support for Sihanouk's opposition parties and the case of Preah Vihear in 1954. On August 1, 1954, Thailand stationed troops in Preah Vihear. Some believed that this was motivated by the view that the territory was given unfairly by France to Cambodia, so when France had left Thailand now had an opportunity to take it back. Preah Vihear was the first to take, and soon it became problematic. An US Foreign Bureau Service officer in Cambodia at that time stated that the relation between Cambodia and Thailand was hostile, involving press and radio attacks on each other, cattle rustling, piracy, mutual charges of false arrests, armed forays by the police forces of both countries, violations of airspace, and Thai territorial claims.²⁹

Talks between the Cambodia and Thailand in 1959 and 1960 were not resolving the dispute. In 1959 Cambodia suggested two possible solutions to the Preah Vihear problem: (1) to establish a joint-administration of the temple by both Cambodia and Thailand, or (2) Cambodia will submit the dispute case to the International Court of Justice (ICJ) at The Hague. Thailand seemed to reject the first suggestion but also remained unclear about the second suggestion. Cambodian government believed that Thailand was pending the decision until 1961 when Thailand was not obliged to be mandatory arbiter by the ICJ. Thus, on October 6, 1959, Cambodia unilaterally submit the case to the ICJ. On May 26, 1961,

Thailand would remain silent (with only some statements from the government stating that Thailand rejected the result) and would not take explicit action until Preah Vihear was listed as UNESCO World Heritage Site in 2008.

In 1970 when Sihanouk was overthrown by a coup, the new Khmer Republic regime led by Lon Nol was heavily supported by the US. This was because the Sihanouk regime was not explicitly against communist Vietnam, so the US preferred to support the new Lon Nol regime. In Thailand, the government was also the ally of US, therefore making Thailand and Cambodia relation peaceful. The issue of Preah Vihear was not problematic anymore, although during the civil war between Sihanouk's supporter and Lon Nol's, Preah Vihear was used as the military defense tourists could still visit some parts of the temple via road from Thailand.

²⁹ Ibid, p. 52.

In 1975, the communist Khmer Rouge took control over Cambodia. Thailand, with its regime change, immediately recognized Khmer Rouge regime of Cambodia (Democratic Kampuchea), strengthened relation with China (the ally of Khmer Rouge), and lowered ties with the US. This period was again a peaceful period of Cambodia-Thailand relation, described as neutral and non-confrontational.³⁰ Khmer Rouge, as mentioned before, followed the Maoist style of communist, banning any religious and traditional activities in Cambodia. Therefore, the Preah Vihear temple was mostly abandoned, forgotten, and done no preservation or restoration at all.³¹

Another big moment in Preah Vihear happened when in 1979 the new regime in Thailand decided to expel all the Cambodian refugees placed in Thailand. This policy was made because Thailand feared that Cambodian war with Vietnam at that time will spill over Thailand, and refugees would be one of the side effects of them. Thailand government also saw some demonstration and demand from Thai citizen along the border, stating that the refugees received better social and economic treatment than Thai citizen themselves. Some of the refugees were also accused as communist spies. Thus, to remove the jealousy and to prevent future conflict between border people, Thailand decided to take out those refugees.

These refugees were victims of years of tragedy and coup d'etat from the world war, Cambodian civil war, and war with Vietnam. There were about 34,000 Cambodian refugees around the Thai-Cambodian border according to UNHCR.³² From that number, Thailand allowed US, France, and Australia to take about 12,000 to grant them asylum in their respective countries. According to a US Embassy official, about 42,000 refugees were forced to go by bus, sent to Preah Vihear, and were forced to walk to Cambodia. UNHCR estimated that 3,000 people died because of military harshness and dangerous situation because the refugees were sent to go in an area full of mines planted by the Khmer Rouge during the civil war.

During the war with Vietnam and during Vietnam puppet state regime, Preah Vihear and surrounding region were used as guerilla base. The strategic location of the temple made it effective to conduct battle. As the result, from the 1980s to 1990s the

³⁰ Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations, 1950-2014", 2014, p. 149.

³¹ Wong, "Temple Wars: Cambodia's Dispute Over Preah Vihear Ownership And Its Effects On National Power", 2013, p. 20.

³² Larry Clinton Thomson, *Refugees Workers in the Indochina Exodus, 1975-1982*. London: McFarland & Company, Inc., 2010, p. 171.

temple was totally inaccessible. During this period (even since the period of civil war until 1992 when UN mission resolved the greater conflict in Cambodia), Preah Vihear was also used as a passage for the black market and illegal trade, usually logistics and weapons. Although normal trade between Cambodia and Thai was also common during the period of relative peace.

After the withdrawal of Vietnamese troops, Cambodia with the help of UNTAC was going through national consolidation process between many factions within Cambodia. Khmer Rouge thought that this process was too diplomatic and resulted in nothing, thus they took the arm to keep the guerilla fighting. Once again, Preah Vihear became an important site in the history of Cambodia as it was used as a place where Khmer Rouge finally surrendered and accept Cambodian government authority in 1998.

In June 2000, Cambodia and Thailand signed a Memorandum of Understanding (MoU) regarding the establishment of Joint Border Committee (JBC) to conduct a joint border survey. This JBC was working based on official documents such as the Paris treaty of 1904 (Franco-Siamese Treaty February 13, 1904), Agreement between Siamese King and the President of French Republic signed March 23, 1907, in Bangkok, Protocol regarding annexed border in 1907, map by the joint commission, and other official documents.³³

This action was a continuation of Cambodian nationalism after the decades of turmoil. In fact, in 1991 Cambodia signed the World Heritage Convention and in 1992 Angkor Wat was successfully listed as a national heritage of Khmer people. UNESCO and World Heritage Convention became important in helping Cambodian nation-building.³⁴ In 2001, Cambodia nominated Preah Vihear as the national heritage site.

The relation between Cambodia and Thailand had just been stable recently when in 2007 Thailand supported the listing of Preah Vihear as Cambodian heritage and in 2008 Preah Vihear was successfully listed as UNESCO World Heritage Site. However, influenced by domestic political situations, Thai people disagreed with government's support for Cambodia's listing of Preah Vihear. Thai people protested in streets and blocked airport in Bangkok, some also reported tried to plant Thai flag in Preah Vihear,

³³ Pou Sothirak, "Cambodia's Border Conflict with Thailand", *Southeast Asian Affairs*, 2013, (p. 87-100), p. 91

³⁴ Robinson, "UNESCO and the Preah Vihear Dispute: Challenges Facing Cosmopolitan Minded International Institutions in Dispute Resolution", p. 31

before being stopped by Cambodian military. Starting from this point, both Cambodia and Thailand were increasing their military around the border in Preah Vihear.

The first troops clash started in October 2008. From 2008 until 2011, 34 people (army and civilians) were killed in the series of skirmishes and clashes between both country's military.³⁵ 2956 people were also displaced from the surrounding region due to the fighting. In 2011, to end the clash, Cambodia asked UN in February³⁶ to gain political pressure to end the conflict (UN also advised to bring the issue to ASEAN as both countries are the member,³⁷ which will be elaborated in chapter IV), while also asked ICJ in April³⁸ to make the interpretation of the 1962 case.

The effort from Cambodia to resolve the dispute is as early as Cambodian independence itself when in 1954 Sihanouk asked for discussion about Preah Vihear with Thailand. After that, Cambodia fell into disability for decades and therefore the issue of Preah Vihear was mostly left out of public policy. Only when Cambodia nominated Preah Vihear for UN World Heritage Site in 2001 that the government policy was back to pay more attention to Preah Vihear.

Both Cambodia and Thailand apparently did not have a formal military monitoring agreement or related actions regarding military information. However, both states did conduct a comprehensive transparency and information exchanges regarding the dispute. The transparency and information came from the result of the ICJ 1962 ruling, which—although Thailand did not agree on—still became the main source of the clarity of the border.

Confidence-building can also be viewed from the effort of both Cambodia and Thailand to champion peace rather than seeking violently to solve the conflict. This championing can be seen from the willingness of both states in signing the Treaty of Amity and Cooperation in 1995. Besides stating that Cambodia is joining ASEAN, this treaty is a symbol of state to agree to settle the conflict peacefully within the Southeast Asian region.

³⁵ Greg Raymond, "Thai-Cambodia relations one year after the ICJ judgement", (East Asia Forum, November 11, 2014) <<http://www.eastasiaforum.org/2014/11/11/thai-cambodia-relations-one-year-after-the-icj-judgement/>> accessed March 23, 2018.

³⁶ Mark Tran, "Cambodia calls for UN support to end Thai border clashes over temple", (The Guardian, February 7, 2011) <<https://www.theguardian.com/world/2011/feb/07/cambodia-thailand-border-clashes>> accessed March 21, 2018.

³⁷ Prak Chan Thul, "Thais, Cambodia face diplomatic pressure to end dispute", (Reuters, February 9, 2011) <<https://www.reuters.com/article/us-thailand-cambodia/thais-cambodia-face-diplomatic-pressure-to-end-dispute-idUSTRE7151K320110209>> accessed March 21, 2018.

³⁸ Deth, "Factional Politics and Foreign Policy Choices in Cambodia-Thailand Diplomatic Relations, 1950-2014", 2014, p. 246.

Cambodian PM Hun Sen also had a good relationship with the PM Thaksin regime and after Thaksin was overthrown, Hun Sen made Thaksin his economic advisor in 2009. This personal-level confidence-building was proven to be effective to help Cambodia's diplomacy of Preah Vihear when Thaksin's regime returned to power in Thailand in 2011.

Along with joining ASEAN, Cambodia also established a formal body with Thailand to manage the dispute called the Joint Border Commission (JBC) in 2000. The aim of JBC is to "... resolve territorial disputes, develop a friendship, and deter conflict".³⁹ In 2004, as the continuation of JBC, Cambodia, and Thailand also established the joint panel to administer the Preah Vihear, which was aimed to "... be a symbol of the long-lasting friendship, based on mutual benefits and understanding, between the two countries".⁴⁰ Another institution known as the signing of joint communique was also introduced by the government of Cambodia and Thailand in 2008 to help the inscription of Preah Vihear as UNESCO World Heritage Site.

Early-warning involves monitoring of developments in political, military, ecological and other areas (such as natural disasters, refugee flows, the threat of famine and the spread of disease) that may become the factors of conflict emergence. The analyzing of this factors was done by the said joint communique, where the institution was aimed to list and find notable differences from both sides regarding the Preah Vihear issue before the temple was listed as UNESCO World Heritage Site.

However, these measures could not be effective because Thailand was having a change of regime. The previous Cambodia-friendly regime of Thaksin Shinawatra was replaced by the coup and the new Thai PM Abhisit Vejjajiva was against the cooperation with Cambodia regarding the Preah Vihear dispute. The new regime rejected the decision of Cambodia to list Preah Vihear as a UNESCO World Heritage Site, and tension arose between the two nations.

On January 23, 1995, Cambodia signed the Treaty of Amity and Cooperation, establishing that interstate conflict should be resolved without violence. In 2000, Cambodia and Thailand signed a Memorandum of Understanding (MoU) that established the Joint Border Commission (JBC) to resolve overlapping territorial disputes. In May 2004, the temple became a permanent border crossing with the

³⁹ Wong, "Temple Wars: Cambodia's Dispute Over Preah Vihear Ownership And Its Effects On National Power", 2013, p. 22.

⁴⁰ Ibid., p. 23.

establishment of a joint panel administration. In 2008, a joint communiqué was signed to register the temple as a UNESCO World Heritage Site.

Cambodian Diplomacy for Preah Vihear Case using Regional Organization (ASEAN) and International Organization (ICJ)

A preventive diplomacy, according to UN Secretary-General, is “...action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur”.⁴¹ The development of preventive diplomacy is so spread out, which makes preventive diplomacy can be done not only by state or UN but also by regional actors such as society or NGO. Nevertheless, the role of the state is still heavy and influential because the state can produce policy and action which is binding to the public. Preventive diplomacy is also relying primarily on non-military instruments.⁴²

After the 2008 clash, the Cambodia-Thailand relation had entered the state of crisis. Therefore, the preventive diplomacy actions taken during this period are different from the actions done before the clash. The preventive diplomacy responses in crisis-time are:⁴³

1) Fact-finding

This response is the series of actions to find reliable fact regarding the dispute. This response is linked to the early-warning measure done during peacetime. This time, the facts found should be used to prove the claim and to provide the context in which both sides could agree on and therefore also agreed to stop the conflict and prevent the conflict from escalating.

In Preah Vihear dispute, the fact-finding was done by Indonesia in the establishment of Term of Reference in May 2011, which stated that Indonesia—by the approval from both Cambodia and Thailand—will send a monitoring team to Preah Vihear. This team would not involve military and would only try to find facts and not to make a judgment based on those facts. The ultimate result based on those facts is to be decided by Cambodia and Thailand themselves.

⁴¹ Amitav Acharya, “Preventive Diplomacy: Issues and Institutions in the Asia Pacific Region”, Eighth Asia-Pacific Roundtable, 1994, p. 4

⁴² Roxana Cristescu, “ASEAN and Peace Mediation: Progress, Challenges, and Cooperation”, *Conference Paper*, The Crisis Management Initiative, 2012, p. 8.

⁴³ Strachan, “Preventive Diplomacy And Conflict Prevention”, 2013, p. 7.

Another party involved in fact-finding is ICJ, which was requested by Cambodia in April 2011 to hold an interpretation of the 1962 Case of Preah Vihear. This new interpretation would result in new findings and—since ICJ acts as the arbitrator—the result of finding is a judgment which must be obeyed by the ICJ signatories states, including Cambodia and Thailand.

2) Good Offices and Goodwill Missions

The good offices and goodwill missions were usually conducted by the UN Secretary-General as the symbol of international concern regarding the issue. However, in this case, when Cambodia requested the involvement of the UN in February 2011, UN instead requested ASEAN as the regional organization of both Cambodia and Thailand to appear in the conflict as a mediator. Although UN did show its concern and urged both sides to end the conflict⁴⁴ but it was ASEAN (represented by Indonesia as the Chair in 2011) that maintained the real presence in both states, conducting shuttle diplomacy and several mediations and facilitation.

3) Crisis-Management

This response is aimed to reduce the violence using measures such as mediation and arbitration. In this case, the mediation was done by ASEAN and more specifically Indonesia as the chair, which conducted several actions such as shuttle diplomacy and negotiation, mediating the JBC meeting, and offering as monitoring team for Preah Vihear. Another actor conducting crisis-management is ICJ, which acted as arbitrator by the request of Cambodia and produce ruling which then must be followed by Cambodia and Thailand. The elaboration of ASEAN's and ICJ's effort will be explained in the next section.

Another major effort of crisis-management is an initiative by Cambodia to hold a friendly football match in September 2011 between Cambodian and Thai football team. This game was approved also by the newly elected regime Yinluck Shinawatra who—unlike the regime of Abhisit who was against Cambodia—previously had maintained good relation with Cambodia through her brother Thaksin. This activity is also known as a part of ‘culture diplomacy’, a diplomacy

⁴⁴ “Thai-Cambodian border troops clash as UN Security Council urges “permanent ceasefire””, (DW, February 15, 2011) <<http://www.dw.com/en/thai-cambodian-border-troops-clash-as-un-security-council-urges-permanent-ceasefire/a-6438986>> accessed April 17, 2018.

which utilizes the cultural capacity of the nation—in this case, sport.⁴⁵ More specifically, this is regarded as ‘soccer/football diplomacy’, with the goal to “...amplify friendship, boost peace, and share comradeship among nations”.⁴⁶ This game showed that Cambodia-Thai relation was improved⁴⁷ and was going into better relation and normalization.

The involvement of third parties (UN/ASEAN) in this dispute was in favor of Cambodia. Cambodia always supported the issue to be brought and discussed in the international organization, stating that bilateral mechanism with Thailand did not work. As early as 2010, Cambodian PM Hun Sen urged the international talk to discuss the temple, stating that the "... a bilateral mechanism would not work anymore ...".⁴⁸ It was proven by the fact that during the 2008-2011 clash, several bilateral talks were attempted by only lasted temporarily. On the other hand, Thailand was always defending the idea that the issue could still be solved bilaterally, although finally Thailand also welcomed the involvement of ASEAN to some degree.⁴⁹

Cambodia's willingness to accept the involvement of international organizations can be seen as the strategy of Cambodia in enhancing its diplomatic power to address the issue. Cambodia's preference to utilize multilateral diplomacy via UN or ASEAN can be explained using the decision making process model. According to Coplin, decision making is influenced by three factors: domestic politics, economic and military capability, and international context. Domestic politics concerned with the government's condition, norm, culture, and interest of the state. The economic and military capability is related to the condition of economy and military, including security and geography. International context in related to how the international regime and influence have on this issue and what global agenda is concerned with it.⁵⁰

The strategy of Cambodia in pursuing multilateral diplomacy can be explained by analyzing the factors that influence the decision;

- 1) Domestic Politics: Cambodia wanted to settle the dispute peacefully and believed that the ongoing clash will not support the purpose of peaceful

⁴⁵ Tulus Warsito & Wahyuni Kartikasari, *Diplomasi Kebudayaan*, Yogyakarta: Ombak, 2007, p. 4.

⁴⁶ Jon Theis Eden, "Soccer and International Relations", Major Research Paper, University of Ottawa, 2013, p. 15.

⁴⁷ Vannarin, "Team Hun Sen Scores a Win With 'Football Diplomacy'".

⁴⁸ The government of Cambodia, "Cambodia's Appeal for International Conference on Border Issue with Thailand", *Royal Embassy of Cambodia to Switzerland Bulletin*, No. 31, 2010, p. 1-5.

⁴⁹ Kyaw Moe Tun, *Towards a Peaceful Settlement of the Preah Vihear Temple Dispute*, Stockholm: Institute for Security and Development Policy, 2011, p. 33.

⁵⁰ William D. Coplin, *Pengantar Politik Internasional : Suatu Telaah Teoritis*, Bandung: CV. Sinar Baru, 1992.

settlement. Moreover, as the member of ASEAN itself which encourage the use of non-violent action, Cambodia felt the need to instead asked help from international organizations to boost its reputation as a country which supports peaceful resolution towards a dispute.

- 2) **Economic and Military Condition:** Cambodia sought help from international organizations because—compared to Thailand—Cambodia is not as powerful. The economy of Cambodia is relatively low in terms of GDP and the national budget needed to be allocated for things more crucial rather than the ongoing conflict. The escalation of conflict and if it could become a war, Cambodia would certainly lose because its economy cannot hold well. Similarly, the military power in terms of personnel, equipment, and budget are far below Thailand's capability thus Cambodia would not win the conflict militarily. Therefore, the only way Cambodia could lever its position is by using multilateral forums and diplomacy.
- 3) **International Context:** in 2008 Preah Vihear had been listed as Cambodian World Heritage Site by UNESCO. UNESCO's inclusion means that Preah Vihear was already regarded as belonging to Cambodia by the international community. In other words, the international support for Preah Vihear dispute was already in favor of Cambodia that is why Cambodia was not afraid to lose the temple in the diplomatic process.

The reason of this Cambodia's strategy to involve international organization can also be analyzed using the idea of balance of power. The balance of power is a system that emphasizes the equal distribution of power among states to prevent conflicts among them. Balance of power system, in this case, have certain conditions: (1) multiplicity of sovereign states unconstrained by any legitimate central authority, (2) continuous but controlled competition over scarce resources or conflicting values (in this case the continuous conflict over the temple), and (3) an unequal distribution of status, wealth, and power potential among the political actors that make up the system (in this case, Cambodia is surely unequal compared to Thailand from the elaboration above).⁵¹

As it has been elaborated before that Cambodia's power is not equal with Thailand's (in terms of economy, military, and even politics since Cambodia had just

⁵¹ Martin Griffiths and Terry O'Callaghan, *International Relations: The Key Concepts*, London: Routledge, 2002, p. 13.

recovered from civil war and turmoil in the early 21st century). Therefore, it makes sense for Cambodia to gain more power by joining multilateral diplomacy via ASEAN and the UN. That way, Cambodia gain more diplomatic power and the power among Cambodia and Thailand would be distributed relatively more equal, which in turn made Thailand thinking twice before continuing the military clashes. Also, according to Kingsley, multilateral diplomacy has its strength. This strength can be used to identify the benefit of multilateral diplomacy for Cambodia in Preah Vihear dispute, which in turn make Cambodia's policy for multilateral diplomacy logical. The strengths are:⁵²

- 1) Instruments of cooperation: multilateral diplomacy will benefit from cooperation because it provides a forum for countries with different agenda to work together on a common issue. In the case of Preah Vihear, although the conflicting parties are Cambodia and Thailand countries in Southeast Asia and in the world, in general, feel the need for security and stability in the region. The need for cooperation and peace is the main interest of ASEAN, while peace and stopping clashes in general is also the interest of the UN. By having a common interest, the outcome can be more accommodating. This will stop both Cambodia and Thailand from pushing their own agenda and interest in the conflict.
- 2) Instruments of openness and transparency: by having many parties involved in the negotiation means that information that is kept the secret between conflicting parties will be exposed. The openness and transparency of information will help the public understand the reality behind the issue, and therefore will gain public support for the reality of the issue. As it has been stated that the Preah Vihear dispute is not only governmental clashes but people from both countries also believe that Preah Vihear is one side's exclusive own. By providing more information to the public, people will understand the reality and will help the resolution process because it will reduce the conflict and tension in the societal level.

The international organization is an important actor in international relations. The establishment of the international organization is becoming more common in recent

⁵² Angela Kingsley, "Multilateral Diplomacy as An Instrument Of Global Governance: The Case of the International Bill Of Human Rights 1948-1966", *dissertations*, University of Praetoria, 2009.

times.⁵³ This mainstreaming of an international organization, according to globalization approach, is due to the fact that state's national capability is limited in the globalization era, thus nations tend to act multilaterally rather than unilaterally.⁵⁴ This limitation, in Cambodian government context, has been explained to understand why Cambodia preferred to conduct diplomacy multilaterally via international organization (ASEAN) rather than directly with Thailand. Another reason why states want to participate and seek help from the international organization is that the related state has a limitation of expertise, knowledge, information, time, and resource of a particular issue. An international organization surely is more capable of doing so because it has more resources from the combination of its member states'.⁵⁵

An international organization can be so influential that it will—in some degree—undermine national sovereignty.⁵⁶ The international organization can also become an independent actor in solving dispute not biased to existing powers, according to optimists and liberalist.⁵⁷ The functions of the international organization such as information function (to collect, analyze, exchange, and disseminate data and information) and organizational function (the use of the organizational resource like technical, financial, and military aid)⁵⁸ are able to make ASEAN be used as an instrument of diplomacy to strengthen Cambodia's position in Preah Vihear dispute; ASEAN can collect data to support the resolution and send technical aid to help Cambodia and Thailand mediate. An international organization can also intervene in a conflict or dispute and, in this case, ASEAN can take a role as to do 'pure mediation' in which the third party (international organization/ASEAN) facilitate negotiation regarding substantial issue using reasoning, persuasion, effective information control, and other alternatives.⁵⁹ International organizations can bring stability because it provides more media of communication and collaboration.⁶⁰

⁵³ B.A. Simmons and L.L. Martin, "International Organizations and Institutions", in W. Carlsnaes, T. Risse, and B. A. Simmons (ed.), *Handbook of International Relations* (p. 192-211), Sage, 2001.

⁵⁴ J. Samuel Barkin, *International Organization: Theories and Institutions*, New York: Plagave Macmillan, 2006, p. 7.

⁵⁵ Sterian Maria Gabriela, "The Role of International Organizations in the Global Economic Governance – An Assessment", *Romanian Economic Business Review*, Vol. 8, 2013, p. 310.

⁵⁶ Simmons and Martin, "International Organizations and Institutions", 2001.

⁵⁷ J.M. McCormick, "Alternate Approaches to Evaluating International Organizations: Some Research Directions", *Polity*, Vol. 14 No.3, 1982,

⁵⁸ Sugito, *Organisasi Internasional: Aktor dan Instrumen dalam Hubungan Internasional*. Yogyakarta: The Phinisi Press Yogyakarta, 2016.

⁵⁹ Ronald Fisher "Methods of Third-Party Intervention", in A. Beatrix, M. Fischer, and H. Giessmann (ed.), *Advancing Conflict Transformation: The Berghof Handbook II*, Barbara Budrich Publishers, 2011, (p. 157-182)

⁶⁰ Matthew Hoddie, "Book Review: The New Dynamics of Multilateralism", *Towson Journal of International Affairs*, Vol. XLVI, No. 1, 2013, p. 68.

Previously, the major ceasefire happened in August 2010, but the shooting repeated again until February 2011. Around the time, the international attention towards the issue was increasing and the issue was discussed in UN and ASEAN. The United Nations Security Council first discussed this issue on February 7, 2011 and was waiting for the result of Indonesia's shuttle diplomacy as the Chair of ASEAN. Shuttle diplomacy is a term used to describe the activity of a diplomat by going back and forth from one party to another to discuss and negotiate upon the issue—in this case was done by Indonesian Ministry of Foreign Affairs to visit Pnom Penh and Bangkok repeatedly⁶¹.

In February 2011, PM Hun Sen asked the UN to assist in Preah Vihear tension resolution because the ongoing tension was so violent and resulted in many deaths, not to mention the disruption of Preah Vihear as Cambodian tourism spot sponsored by UNESCO. Hun Sen wanted UN to end the conflict by sending peacekeeping force on the border.⁶² However, instead of deploying a mission to Preah Vihear, the UN asked ASEAN to help to mediate the issue. This was because both Cambodia and Thailand are the member of ASEAN, and ASEAN had already had a meeting regarding the issue. On the same month, ASEAN had conducted an informal ministerial meeting and agreed that Indonesia would help Cambodia and Thailand in resolving the issue.⁶³ UNSC invited ASEAN to UN Headquarter with Cambodia and Thailand and the UN formally hand the problem to ASEAN.⁶⁴

Mediation is an effort of conflict resolution by involving a neutral third party which does not have authority to make a ruling decision and only assists the conflicting sides to reach agreement about the conflict.⁶⁵ Most mediation by the third party is with negotiations. Mediator (the party doing meditation) can also act as a facilitator where it facilitates both sides to have proper communication and information sharing to help end the violence, when both sides are having difficulty to do so.⁶⁶

The various mediation done by ASEAN are listed as follows:

⁶¹ Farida, "Penyelesaian Sengketa Perbatasan Antara Thailand Dan Kamboja Melalui Mekanisme Asian", 2014, p. 64

⁶² Cheang Sokha & Chhay Channyda, "UN to Meet Over Preah Vihear" (The Phnom Penh Post, February 13, 2011) <<https://www.phnompenhpost.com/national/un-meet-over-preah-vihear>> accessed April, 15 2018.

⁶³ ASEAN Secretariat, "Surin to Thailand and Cambodia: "Let ASEAN help mediate soonest." (ASEAN, February 5, 2011) <<http://asean.org/surin-to-thailand-and-cambodia-let-asean-help-mediate-soonest/>> accessed April 18, 2018.

⁶⁴ ASEAN Secretariat, "ASEAN Chair Invited to UNSC Meeting on Cambodian-Thai Border Dispute" (ASEAN, February 10, 2011) <<http://asean.org/asean-chair-invited-to-uns-c-meeting-on-cambodian-thai-border-dispute/>> accessed April 18, 2018.

⁶⁵ Gatot Soemartono, *Arbitrase dan Mediasi di Indonesia*, Jakarta: Gramedia Pustaka Utama, 2006, p. 2.

⁶⁶ Claas D. Knoop, "The Third Party in Conflict Resolution: As Facilitator, Mediator or Arbitrator", *ISPSW Strategy Series: Focus on Defense and International Security*, No. 295, 2014, p. 4

- 1) ASEAN facilitation of JBC meeting in April, 7-8 2011. This was the first JBC meeting between Cambodia and Thailand since 2008 and resulted in three points: an initiative by Cambodia to send technical team/monitoring team to Preah Vihear, creating new photo map/aerial photo of Preah Vihear, and advising that General Border Committee meeting between both militaries to be held in Indonesia.⁶⁷
- 2) The Indonesia-Cambodia-Thailand trilateral meeting, May, 6-7 2011. This meeting was arranged personally by Indonesian president, particularly to end the violence between both military. This meeting also further strengthen the deployment of the monitoring team to Preah Vihear.
- 3) The establishment of the monitoring team to Preah Vihear. Although this initiative was agreed by both Cambodia and Thailand Thai military in Preah Vihear denied the team from visiting and properly conducting the investigation in Preah Vihear.⁶⁸
- 4) The multilateral meeting between ASEAN members states. This usually done in a public meeting of ASEAN Conferences.⁶⁹

Nevertheless, the ASEAN existence itself was a key for both sides to not spread the conflict into a broader conflict and open war. Being the same member states of ASEAN prevent Cambodia and Thailand to escalate the conflict more.⁷⁰ ASEAN was also trusted by the UN, ICJ, and US Secretary of State at that time to handle the tension and help to mediate the dispute.⁷¹

Despite that, some also argued that ASEAN's effort was not significant due to the value of ASEAN itself. The norm of non-interference means that ASEAN can not get too much involved in the conflict because it was Cambodia-Thailand internal problem. Even after the clash started in 2008, ASEAN meeting at that time was focused on building ASEAN Community 2015 rather than discussing on the clash and general Preah Vihear dispute. Decision made by ASEAN must also be agreed by all the member states or known unanimity system. This was hard to achieve because any decision regarding the Preah Vihear was having different interpretation and view from both

⁶⁷ Rudolf Volman, "Strategi Kamboja Dalam Penyelesaian Konflik Kuil Preah Vihear Pasca Bentrokan Bersenjata dengan Militer Thailand Tahun 2011", *ejournal Ilmu Hubungan Internasional*, Vol. 2 No. 1, 2014, p. 42-43.

⁶⁸ Wong, "Temple Wars: Cambodia's Dispute Over Preah Vihear Ownership And Its Effects On National Power", 2013, p. 28.

⁶⁹ ASEAN Secretariat, "ASEAN Welcomes Cambodian-Thai Firm Commitment to Avoid Further Clashes" (ASEAN, February 22, 2011) <<http://asean.org/asean-welcomes-cambodian-thai-firm-commitment-to-avoid-further-clashes/>> accessed April 17, 2018.

⁷⁰ Lucas G Barlow, "The Preah Vihear Temple: what's in a claim?", *Thesis*, Naval Postgraduate School, 2011, p. 63

⁷¹ *Ibid.*

Cambodia and Thailand, and therefore if one rejected the decision, the decision could not be implemented at all.⁷² This weakness was also affirmed by Cambodia, which saw that ASEAN was not so significant to end the dispute and instead requested to ICJ to rule the new dispute.⁷³

Previously, ICJ had ruled the dispute of Preah Vihear. In 1962 it has been stated clearly by ICJ ruling that Preah Vihear belongs to Cambodia based on a map produced by French and Thailand joint commission in 1907. However, Thailand rejected this because they conduct their own survey and concluded that the map by French was wrong. But Thailand did not bring up the case publicly not until the listing of Preah Vihear as UNESCO site in 2008.

In late April 2011, Cambodia filled the request for ICJ to get the interpretation of 1962. Thailand attempted to remove the request, believing that the bilateral mechanism would still work, but ICJ rejected this notion. In July 2011, the request was accepted by the ICJ judges and was in process of interpretation. To wait for the result, ICJ announced that "Both parties must immediately withdraw their military personnel currently present in the provisional demilitarized zone defined by it, and refrain from any military presence with that zone and from any armed activity directed at that zone".⁷⁴ Additionally, ICJ also decides that Thailand should not block access to Preah Vihear, both countries must cooperate with ASEAN and implement their mediation and observer plan; and both countries should refrain from activities that would aggravate the situation.⁷⁵

Due to the new regime of Shinawatra (who was friendly toward Cambodia) in Thailand replacing the old one in end of July 2011, the ceasefire was implemented and major skirmish in Preah Vihear was stopped. However, waiting for ICJ result in 2013, both countries were scheduling exercise to show their military capability⁷⁶ assign of deterrence to each other if the new interpretation by ICJ was not pleasing to both sides and further conflict was inevitable.

The role of ICJ can be categorized as an arbitrator, where a third party makes the decision regarding the issue of the two parties. Unlike mediation which only provides

⁷² Oudshoorn, "The Thai-Cambodian Border Dispute: The Overlapping Area", 2015, p. 41.

⁷³ Wong, "Temple Wars: Cambodia's Dispute Over Preah Vihear Ownership And Its Effects On National Power", 2013, p. 28.

⁷⁴ Oudshoorn, "The Thai-Cambodian Border Dispute: The Overlapping Area", 2015, p. 41.

⁷⁵ Wong, "Temple Wars: Cambodia's Dispute Over Preah Vihear Ownership And Its Effects On National Power", 2013, p. 29.

⁷⁶ Ibid., p. 40.

medium and facilitates both parties to negotiate, an arbitrator can have their own decision based on the fact-finding and legal measure to decide legally which party is right or wrong based on law.⁷⁷ Also, based on UN Charter and ICJ statute, the judgement of ICJ is “...binding, final and without appeal”.⁷⁸ Both Cambodia and Thailand must obey the result of ICJ interpretation in 2013.

In November 2013, ICJ released the result of 1962 case interpretation,⁷⁹ which make the clash stop and both countries accepted the result, although ICJ did not specifically decide the exact border and that matter was handed to both country to resolve bilaterally. The interpretation ruled that Cambodia was indeed having the Preah Vihear temple, but not the disputed area surrounding it since the 1904 Annex I map only decided the northern edge of the temple area, not the east, west, and south side. These sides would be decided by geographic features and negotiations.

Meanwhile, Thailand, which rejected the 1962 case result, also could not rely on its own map survey since Thailand apparently place the wired fence along the border which did not match Thailand's own survey, therefore its claim was also invalid. Nevertheless, the new interpretation could be seen as "win-win" solution because it ended the clash, or "lose-lose" because both Cambodia and Thailand did not get what they initially claimed or wanted.⁸⁰

CONCLUSION

Preah Vihear was a Hindu temple built in the reign of Khmer Empire and then changed into a Buddhist temple. Khmer Empire was the ancestor of Khmer people in Cambodia and had territory from Cambodia to surrounding area in Indochina. After the fall of the Khmer Empire in the 15th century, the ownership of Preah Vihear was under the Siamese Kingdom which saw itself as the legacy of Preah Vihear. The Siamese Kingdom transformed into Thailand, while Cambodia was under the rule of French colonial power.

In 1904, Siam and France had a joint commission to map the Preah Vihear and decide the border between two countries. The initial map was supposed to follow the

⁷⁷ Knoop, “The Third Party in Conflict Resolution: As Facilitator, Mediator or Arbitrator”, 2014, p. 4

⁷⁸ International Court of Justice, *The International Court of Justice : Handbook*, The Hague: The Registrar of the International Court of Justice, p. 69.

⁷⁹ John D. Ciorciari, “Request for Interpretation of the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)”, *The American Journal of International Law*, Vol. 108, No. 2, 2014.

⁸⁰ Raymond, “Thai–Cambodia relations one year after the ICJ judgement”, (East Asia Forum, November 11, 2014)

watershed line and place all Preah Vihear inside Thailand. However, the French survey in 1907 did a different result and placed Preah Vihear inside Cambodia. Thailand could not protest or laid claim because Thailand was unable to do own survey and to prove the error. In the 1940s a war broke out between Thailand and France and Thailand successfully annexed Preah Vihear. However, by the end of World War II the new treaty insisted Thailand to return the territory of Cambodia taken from France and return Preah Vihear to France, although Thailand remained a presence in the temple and maintained de facto control.

The issue of Preah Vihear was discussed by the newly independent government of Cambodia in 1954 and was brought to ICJ to be decided. In 1962, ICJ decided—from the 1907 map by France—that Preah Vihear belonged to Cambodia. After the 1960s, Cambodia and Thailand relation was unstable and Cambodia faced many regime changes, practically abandoned the case of Preah Vihear. After the current regime of Cambodia was established in the 1990s, the issue of Preah Vihear was brought up again, especially to boost Cambodian national identity by listing Preah Vihear as UNESCO World Heritage Site in 2008.

The clash between Cambodia and Thailand happened in 2008 after Cambodia successfully listed Preah Vihear as Cambodia's cultural site. Thailand believed that the 1962 ICJ ruling was invalid because it was based on the wrong map. Clashes were filled with violence and military contact around the temple, resulting in 30 death and 2000s displaced. To end the clash, in 2011 Cambodia asked the United Nations to help to mediate and end the dispute.

The strategy is done by the Cambodian government to solve the dispute can be analyzed with the concept of diplomacy. The effort can be considered as a preventive diplomacy in which Cambodia tried to prevent the dispute from emerging (before 2008) and to prevent the conflict from escalating (in 2011). The pre-2008 effort included the establishment of Joint Border Commission in 2000 to settle the dispute following the listing of Preah Vihear temple to UNESCO. The 2011 effort to prevent conflict from escalating was by arranging a football match between Cambodia and Thailand as a sign of the peaceful relationship between two nations.

Another concept to analyze this is multilateral diplomacy, where Cambodia utilize the multilateral instrument of the international organization to help to settle the dispute.

This was because Cambodia's national capacity in terms of economy and military was weaker compared to Thailand, therefore to balance the condition Cambodia needed to use other parties. Cambodia also believed that international attention was in their favor because legally Preah Vihear was under Cambodian sovereignty.

The strategy of multilateral diplomacy included the mediation and facilitation by ASEAN. ASEAN as the organization covering both Cambodia and Thailand became the instrument of preventing the conflict from escalating any further. The norm and value of ASEAN also held the conflicting parties to open the conflict to all-out war. Besides ASEAN, Cambodia also asked ICJ to solve the issue by reinterpreting the 1962 case. ICJ acted as arbitrator to decide the law regarding Preah Vihear to be obeyed by Cambodia and Thailand.

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