

An aerial photograph of the Temple of Preah Vihear, showing its stone structures and surrounding forested landscape. The temple is situated on a hillside, with various stone walls and buildings visible. The surrounding area is densely forested, and the sky is clear.

"Khmer" v. "Thai" in the International Affairs Arena : A Case Study on the Dispute of the Temple of Preah Vihear

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Abstract

This research is a synopsis of a master degree thesis titled “Analysis of the Rules of International Law on the Judgment of the Request for Interpretation of the Judgment in the Case Concerning the Temple of Preah Vihear 2013”. It aims to: 1) understand the history of the Temple of Preah Vihear; 2) understand the ethnical disputes between Khmers and Thais since the colonization period; 3) criticize the nationalists' concept regarding the International Court of Justice (ICJ)'s judgment and; 4) propose recommendation to register the entire Dangrek mountain range as the UNESCO's cultural and natural world heritage site. The methodologies of this research were conducted through qualitative analysis methods, data collection, narrative description and content analysis.

This research found that the Temple of PreahVihear, situated on the Dangrek mountain range, is considered sacred religious sanctuary for both Khmers and Thais. Thereafter, a number of separation of ethnicity concepts have been introduced; first, the concepts of “nation-state” and “border demarcation” were inserted during the French Colonization; and second, the “nationalism” concept was invoked by the Thai government during the Indochina Wars. It contributed to the territorial disputes which range from diplomatic negotiations, armed incidents and the proceedings of the ICJ in 1962. The ICJ founded that the Temple of PreahVihear was situated in territory under the sovereignty of Cambodia. In 2008, Cambodia, which gained a support from the Thai government, requested the UNESCO to inscribe the Temple of PreahVihear on the World Heritage List. However, it led to invocation of the nationalism concepts in Thailand which further aggravated the situations since most Thais did not truly understand all the facts and backgrounds of the Case. Recently in 2013, another ICJ decision on the Request for Interpretation of the 1962 Judgment reaffirmed Cambodian sovereignty over

the Temple as well as its vicinity, incorporating the whole promontory upon which the Temple is based. This Judgment was another affirmation by international law that Thailand did not lose more territory than what it had lost 50 years ago. Moreover, it reflected that the Temple of PreahVihear should be considered a common heritage of mankind, rather than a symbol for “ethnicity”, “prejudice” or “bargaining chip” in international politics of the two nations.

The author recommended that Thailand should conduct “cultural diplomatic approach” to request the UNESCO to inscribe the Temple of Phanomrung on the Cultural World Heritage List, similar to the Temple of PreahVihear in Cambodia and the Temple of Vat Phou in Laos. As all three temples are on the Dangrek mountains range, Thailand, Cambodia and Laos could jointly request for the inscription of the entire Dangrek mountains range as a Natural World Heritage Site to reflect the diversity as well as the cultural and natural value around this area which is the pride of three nations. In this way, the world heritage concept could be used as a tool to solve conflicts whilst bringing the citizens of the three nations together under the concepts of equality, shared-ownership and responsibilities to protect the common heritage of mankind in Southeast Asia.

Keywords: Temple of Preah Vihear, World Heritage, Nationalism

Introduction

The Temple of Preah Vihear, a UNESCO world heritage site, possessed the religious and cultural significance for the people of the region of the Dangrek mountains range such as Thais, Khmers and Laos and is now listed by UNESCO as a world heritage site. However, it was also a symbolic battle between Thailand and Cambodia in the international affairs arena for five decades. The dispute derived from the conflicts between Siam, Cambodia and France during the French Colonization of Indochina a century ago. At that time, the concepts of “nation-state” and “border demarcation” were introduced resulting in the emergence of the “time bomb” for Thailand and Cambodia over the region of the Temple of Preah Vihear.

In addition, the Thai government invoked the “nationalism” during the Indochina Wars to support its invasion and annexation of some parts of the French Indochina. Notwithstanding, the region of the Temple of Preah Vihear was status quo after the end of World War II. After gaining the independence from France, Cambodia began the diplomatic negotiation with Thailand to reclaim the region of the Temple of Preah Vihear. However, this led to the armed incidents so the case was brought to the proceedings of the ICJ in 1962. In this result, the ICJ founded that the Temple of Preah Vihear was situated in territory under the sovereignty of Cambodia and the situation seemed much more peaceful and comity for a half century.

Nevertheless, the dispute over the Temple of Preah Vihear reemerged when Thailand signed a *joint communiqué* in 2008 to support Cambodia’s inscription the Temple of Preah Vihear as a UNESCO World Heritage Site. At the same time, the opposition People’s Alliance for Democracy (PAD) used UNESCO’s decision to stoke nationalism against the Thai government and a number of armed incidents between two countries took place in the border area close to the Temple of Preah Vihear from 2008-2011 leading to

the call for a permanent ceasefire by the United Nations Security Council (UNSC). Meanwhile, Cambodia requested the ICJ to interpret the 1962 Judgment. Therefore, the ICJ reaffirmed Cambodian sovereignty over the Temple as well as its vicinity, incorporating the whole promontory upon which the Temple is based.

Hence, the dispute over the Temple of Preah Vihear was the good example for the critical issues of sovereignty and national pride between Thailand and Cambodia. Moreover, the domestic political movements in both countries inevitably led to the disputes in the international affairs arena and mutual hatred of both ethnics between Thai and Khmers. Optimistically, the inscription of the Temple of Preah Vihear as a world heritage site may solve this century-long dispute because both countries need to comply with the international obligation under the two judgments and the 1972 World Heritage Convention.

Objectives

There are four objectives in this research;

1. To understand the history of the Temple of Preah Vihear
2. To understand the ethnical disputes between Khmers and Thais since the colonization period
3. To criticize the nationalists' concept regarding the International Court of Justice (ICJ)'s judgment
4. To propose recommendation to register the entire Dangrek mountain range as the United Nations Educational, Scientific and Cultural Organization (UNESCO)'s cultural and natural world heritage site

Research Methodology

The methodologies of this research were conducted through qualitative analysis methods, data collection, narrative description and

content analysis. It began with the overview of the history of the Temple of Preah Vihear, the ethnical disputes between Khmers and Thais since the colonization period, inter alia, the French Colonization in Southeast Asia, the French Indochina, Thai nationalism concept during the Indochina Wars and the aforesaid concept after Thailand signed a joint communiqué with Cambodia for inscribing to UNESCO to name the Temple of Preah Vihear a World Heritage site in 2008, respectively.

Then, it reviewed the international legal framework in the light of the Franco-Siamese Treaties 1904 and 1907 including the annexed I Map, the Judgment of 15 June 1962 in the Case Concerning the Temple of Preah Vihear (Cambodia V. Thailand), the Judgment of 11 November 2013 in the Request for Interpretation of the 1962 Judgment (Cambodia V. Thailand), the Statue of the ICJ, the 1972 World Heritage Convention and the related documents.

Finally, it analyzed all the contents based on the international obligations between Thailand and Cambodia with the respect of the two judgments, related treaties, conventions and documents which will be led to the solution of this research.

Result

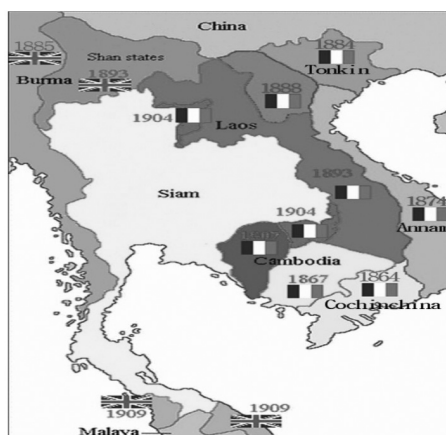
The Temple of PreahVihear, situated on the Dangrek mountain range, is considered sacred religious sanctuary for both Khmers and Thais at least 2,000 years.³ Their relation between both ethics, in addition Laos would be classified in 3 categories such as relatives among those ethnics, trades through the mountain pass and economic activities under the state policy until the French entered to influence the Indochinese peninsula 100 years ago and a number of separation of ethnicity concepts have been introduced.⁴

³ Apiwan Adulyapichet (ed), 2008, p.2

⁴ Pipat Krajaejan, 2013, p.34-98

The author highlighted that;

1. The concepts of “nation-state”, a form of political organization in which a group of people who share the same history, traditions, or language live in a particular area under one government and “border demarcation”, the process of establishing borders or limits between areas⁵, were just inserted during the French Colonization a hundred years ago. Particularly, France demanded to influence the Indochinese Peninsula by dominating Cambodia and Laos, respectively. Therefore, Siam had no choice to relinquish those vassal states to France.⁶



Picture 1: Shows the French Indochina Map during the French Colonization in Southeast Asia

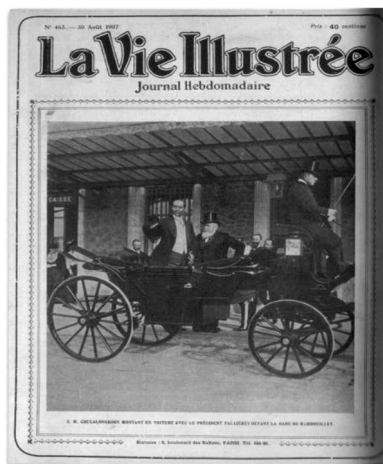
2. Siam, as a buffer state between Great Britain and France, struggled to be independent. Effectively, there were the “Supreme Diplomacy”, the conduct by the Head of State of negotiations and other relations, between the King of Siam, the King of Cambodia under French Protectorate and the President of France over the dispute concerning the French Indochina.⁷

⁵ Paul Wilkinson, 2014, p.41-43

⁶ Krairoek Nana, 2004, p.249-255

⁷ Krairoek Nana, 2003, p.152-177

As a result, King Chulalongkorn of Siam, the first Head of State of Southeast Asia who visited Europe twice during 1897 and 1907 and accomplished Siam, independently.



Picture 2: Shows President Armand Fallières of France welcomed King Chulalongkorn of Siam to Paris in 1907 while the French representatives ratified the Franco-Siamese Treaties 1907.

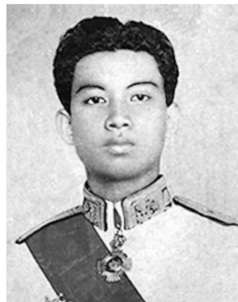
3. During the period of colonization, the protectorate had emerged to be independent from the protected state. The most powerful concept was the “nationalism” concept which is the policy or doctrine of asserting the interests of one's own nation viewed as separate from the interests of other nations or the common interests of all nations. Even Thailand, the independent state invoked this concept for annexation of some parts of the French Indochina during the Indochina Wars which was the part of World War II in Southeast Asia. In other words, Thailand demanded to reclaim and liberate some parts of Cambodia and Laos from France, the Western State.⁸

⁸ Sunait Chutintaranond et al., 2014, p.23-24



Picture 3: Shows General Plaek Phibunsongkhram, Prime Minister of Thailand invoked the “nationalism” during the Indochina Wars.

4. The Temple of Preah Vihear which was annexed by Thai government only few years during the Indochina Wars, was returned to *status quo* after the end of World War II and brought to the international politics by Cambodia after independence from France, immediately. Await for hundreds years of independence, King Norodom Sihanouk of Cambodia raised this issue to reclaim from Thailand for his reputation, united the nation⁹, and adored “Khmer,” ancestor of Cambodian who built many sacred stone temples around Southeast Asia.¹⁰



Picture 4: Shows King Norodom Sihanouk of Cambodia who played an important role to reclaim the region of the Temple of Preah Vihear from Thailand.

⁹ Prayath S.Nakanath and Jamras Duangthisam, 1962, p.65-80

¹⁰ George Coëdès, 2013, p.89-99 ; Sakchai Saising, 2013, p.2-17 ; Santi Pakdeekam, 2011, p.9-13

5. In these consequences, it contributed to the territorial disputes between Thailand and Cambodia which range from diplomatic negotiations, armed incidents and the proceedings of the ICJ in 1962¹¹. It first showed that Cambodia and Thailand tried to find out bilateral solution, peacefully but ended up with no solution. Regretfully, Cambodia and Thailand breached international law by violating the use of forces, in accordance with the United Nations Charter. Finally, Cambodia decided to inform against Thailand before the ICJ, nevertheless it would be shown the peaceful means and respect the United Nations Charter as the last resort.¹²



Picture 5: Shows the proceeding of the ICJ in the Case Concerning the Temple of Preah Vihear in 1962.

6. In 1962, the ICJ founded that the Temple of PreahVihear was situated in territory under the sovereignty of Cambodia and Thailand was under an obligation to withdraw any military or police forces, or other guards or keepers, stationed by her at the Temple, or in its vicinity on Cambodia territory and to restore to Cambodia any objects of the kind specified in Cambodia's fifth Submission which may, since the date of the occupation of the Temple by

¹¹ Jantree Sinsupparoe, 2014, p.10-14

¹² Kajorn Sukkapanich, 2014, p.305-316

Thailand in 1954, have been removed from the Temple or the Temple area by the Thai authorities.¹³ In respect of the judgment, the Thai government passed a resolution to defined “vicinity” and withdrew any military or police forces, or other guards or keepers by the long barb wires, approximately 0.25 km square, one-fourth of the promontory of Preah Vihear.¹⁴



Picture 6: Shows the Temple of Preah Vihear.

7. In 2008, Cambodia, which gained a support from the Thai government, requested the UNESCO to inscribe the Temple of PreahVihear on the World Heritage List. Then, the World Heritage Committee decided to inscribe the Temple of Preah Vihear on the World Heritage List¹⁵ while the anti-Thai government concerned that Thailand would lose the territory of the region of the Temple of Preah Vihear.¹⁶ Hence, the tension began between Thailand and Cambodia relations, but it started with the internal affair of Thailand.

¹³ Hanuman Kammatan (ed), 2008, p.51-52

¹⁴ Ministry of Foreign Affairs, 2011, p.19-20

¹⁵ Irena Kozymka, 2014, p.126-127

¹⁶ Puangthong Pawakapan, 2013, p.101-106



Picture 7: Shows Noppadon Pattama, Minister of Foreign Affairs signed a joint communiqué with Cambodia for inscribing to UNESCO to name the Temple of Preah Vihear a World Heritage site in 2008.

8. Coincidentally, it led to invocation of the nationalism concepts in Thailand which further aggravated the situations from 2008 to 2011 while Cambodia held the General Election in 2008. These could be explained about the nationalism concepts which are the excessive patriotism in Thailand and the desire for national and political aims in Cambodia. In these consequences, the issue of the Temple of Preah Vihear was the political object, again for both the Cambodian government and the anti-Thai government and led to the international affair between Thailand and Cambodia, inevitably.¹⁷



Picture 8: Shows the troops of Cambodia on the border between Thailand and Cambodia during 2008-2011.

¹⁷ Srisak Wanlipodom, "Apinpen" and Walailak Songsiri, 2008, p. 13-14

9. In 2013, another ICJ decision on the Request for Interpretation of the 1962 Judgment reaffirmed Cambodian sovereignty over the Temple as well as its vicinity, incorporating the whole promontory upon which the temple is based.¹⁸ Therefore, Thailand and Cambodia have to respect the latest Judgment as the members of the United Nations. Last but not least, over a century, both states should reconsider this territorial dispute with the peaceful means and also respect the Temple of Preah Vihear as the world heritage.¹⁹ In the bottom line, the Temple of Preah Vihear is neither the property of Thailand nor Cambodia, but the property of all mankind on Earth.



Picture 9: Shows the proceedings of the ICJ in the Request for Interpretation of the 1962 Judgment in 2013.

Conclusion

The dispute over the Temple of Preah Vihear was the legacy from the French Colonization a century ago, but it later gave the territorial dispute between Thailand and Cambodia. In addition, it also gave the ethnical dispute between Thais and Khmers. Although the ICJ founded in 1962 that the Temple of PreahVihear was situated in territory under the sovereignty of

¹⁸ Ministry of Foreign Affairs, 2014, p.79

¹⁹ Peerapon Jaderojananont, 2014, p.428-429

Cambodia, most Thais did not truly understand all the facts and backgrounds of the Case. The widespread protests erupted in 2008 in both countries leading to the armed incidents after the decision of the World Heritage Committee inscribed the Temple of Preah Vihear on the World Heritage List following the request from Cambodia with the support from the Thai government. Finally, in 2011, Cambodia brought the case to the ICJ requesting for the interpretation of the 1962 Judgment and the ICJ decided in 2013 that Cambodia had sovereignty over the whole territory of the promontory of Preah Vihear.



Picture 10: Shows the whole promontory of the Temple of Preah Vihear.

In conclusion, it reflected that the Temple of Preah Vihear was regarded as a symbol for “prejudice” from the French Colonization and the 1962 Judgment, of “ethnicity” for the pride of ancient Khmer Empire and the Thai nationalism concept since the Indochina Wars and of “bargaining chip” for both Thailand and Cambodia in international affairs arena. In a proper inter-temporal dimension, the ICJ took into due account not only the territory at issue, but also the protection of the population on the territory and of the cultural and spiritual value of the world heritage by avoiding the spiritual

damage. Therefore, the world heritage principle may lead Thailand and Cambodia or even Laos closer to the domain of higher human values shared by the international community, hence their utmost importance, at both international and domestic levels.

Suggestion from Research

According to the 2013 Judgment, the ICJ recalls that under Article 6 of the 1972 World Heritage Convention which both Thailand and Cambodia are parties and must be co-operate between themselves and with the international community in the protection of the site as a world heritage- the Temple of Preah Vihear.

Thereafter, the author suggests to conduct the “cultural diplomatic approach” for Thailand and neighboring countries. Firstly, the historical and cultural site of the Temple of Preah Vihear is not only situated on the promontory of Preah Vihear but also includes a part of Khao Phra Vihan National Park, Sisaket, Thailand. In this regard, Thailand should promote all nearby areas of the Temple of Preah Vihear which is in the territory under the sovereignty of Thailand through the co-operating with UNESCO and Cambodia as the host state of the Temple of Preah Vihear.

Secondly, Thailand should request the UNESCO to inscribe the Temple of Phanomrung, Buriram on the Cultural World Heritage List in parallel with the Temple of Preah Vihear, Preah Vihear in Cambodia and the Temple of Vat Phou, Champasak in Laos. As all three temples are on the Dangrek mountains range, significantly the Temple of Phanomrung is the only one temple in this area which is not inscribed on the World Heritage List. In this regard, the Temple of Phanomrung is the most famous site where the rays from the sun shine through all of its 15 doorways for 4 times a year.

Finally, Thailand, Cambodia and Laos could jointly request for the inscription of the entire Dangrek mountains range as a Natural World Heritage Site to reflect not only the unity among them but also the cultural and natural values, which will be the pride of three neighboring countries. In the bottom line, the world heritage concept should be a conflict solution leading to the enhancement of the equality, shared-ownership and responsibilities to protect *res communis humanitatis*, the common heritage of mankind in Southeast Asia.



Picture 11: Shows the Temple of Preah Vihear with the World Heritage Site flag of UNESCO and the flag of Cambodia as the host state.

References

- Apiwan Adulyapichet (ed). (2008). **Sri Sikhahesvara Prasat Phra Wihan The Heavenly Sanctuary, The Temple of Universal Faith**. Bangkok: Thaweewat.
- George Coëdès. (2013). **Angkor**. Bangkok: Dream Catcher.
- Hanuman Kammatan (ed). (2008). **Judgment of the Case Concerning the Temple of Preah Vihear 1962**. Bangkok: Kledthai.
- Irena Kozymka. (2014). **The Diplomacy of Culture The Role of UNESCO in Sustaining Cultural Diversity**. New York: Palgrave Macmillan.
- Jantree Sinsupparoe. (2014). **Dispute of the Temple of Preah Vihear: Contexts of Laws and Politics**. Bangkok: Nititham.
- Kajorn Sukkapanich. (2014). **History: Period of Bangkok**. Nonthaburi: Sripanya.
- Krairoek Nana. (2003). **King Chulalongkorn towards the West**. Bangkok: Matichon.
- _____. (2004). **King Mongkut stopped Europe to invade Siam**. Bangkok: Matichon.
- Ministry of Foreign Affairs. (2011). **Facts of the Dispute of the Temple of Preah Vihear and the Boundary Negotiation between Thailand and Cambodia which Thais should know**. Bangkok.
- _____. (2014). **Judgment of 11 November 2013**. Bangkok: Matichon.
- Paul Wilkinson. (2014). **International Relations: A Very Short Introduction**. Bangkok: Openworlds.
- Peerapon Jaderojananont. (2014). **The World Heritage Protection in Southeast Asia Region: An Assessment Towards the Implementation of Thailand, Thammasat Law Journal**. Vol. 43, No.2.
- Pipat Krajaejan. (2013). **The History of People on the Border of the Promontory of Preah Vihear**. Bangkok: Matichon.

- Prayath S.Nakanath and Jamras Duangthisarn. (1962). **The Politics of the Promontory of Preah Vihear**. Bangkok: Sarnsawan.
- Puangthong Pawakapan. (2013). **State and Uncivil Society in Thailand at the Temple of Preah Vihear**. Bangkok: Kobfai.
- Sakchai Saising. (2013). **Sri Sikharesvara: Temple of Preah Vihear**. Bangkok: Matichon.
- Santi Pakdeekam. (2011). **The Temple of Preah Vihear belongs to Thais or Who?**. Bangkok: Amarin.
- Srisak Wanlipodom, “Apinpen” and Walailak Songsiri. (2008). **Promontory of Preah Vihear: Time Bomb from the Colonization Period**. Bangkok: Matichon.
- Sunait Chutintaranond et al. (2014). **Nationalism in Thai Textbooks**. Bangkok: Matichon.